

AGENT AT THE DOOR – FRET YE NO MORE!

No agent can force entry unless:

**They are repossessing the property with a writ/warrant
or fixing a gas leak also with a warrant**

A. Private Debt Collector (Mobster) – No Warrant

1. Point out your PRIVATE - BY APPOINTMENT ONLY notice on the front door.
2. Ask them if they saw it.
3. If they say YES, ask them to leave as they do not have an appointment and tell them that ignoring the notice and refusing to leave puts them in **first trespass**.
4. Ask if they would like an appointment to remain in honour and avoid further trespass.
5. If they say YES. Tell them your charges are five thousand pounds per visit payable in advance by PayPal (give them a suitable email address).
If they say NO - ask them again to leave
6. If they refuse to leave, point out that they are in **second trespass**.
7. Ask them to leave for a third time. Ignoring this puts them in **third or aggravated trespass** and you can remove them with reasonable force according to case law.

Avoid at all cost

- Opening the door.
- Answering questions.
- Engaging in any other way (no name, no admissions etc).

Make sure that you

- Get their identity especially their office number.
- Call their offices to tell them to delete your personal data.
- Give them warning under GDPR that unlawful access to personal data can and shall be reported and actioned in a civil claim.

If they are rude or aggressive

- Orally serve a personal liability notice with fee schedule notice (templates available at www.thepeopleslawyeruk.com). This is assuming that it is unrealistic to remove them from your property.
- Call the police if the agent is putting you in fear. This would be committing 'assault' – which is a crime at common law.
- **Remember: no warrant = no entry and no deal!**

B. Private Debt Collector (Mobster) – Alleged Warrant to Fit a Pre-Payment Meter

See above section A for basic strategy plus:

1. If they say they have a warrant to fit a pre-payment meter they are lying. This is fraud under Fraud Act 2006 section 2: fraud by misrepresentation.
2. There is no such thing as a warrant to fit a **pre-payment meter** without written consent. Even if they threaten to call police and police come, the police must only attend as peace constables.
3. Ask police if they are attending as peace constables, then gently remind them that if they stray beyond that capacity in order to assist a debt collector, they are potentially committing a serious offence under **Criminal Courts and Justice Act 2015 section 26**: with potential imprisonment for up to 14 years for **abuse of position**.
4. **Remember: no warrant = no entry and no deal!**

C. Private Debt Collector (Mobster) – Clamps your vehicle

- Fixing a clamp is trespass to your property
- Get an immediate estimate from a locksmith to remove the clamp
- Call the debt collection agency and warn them that if they do not remove the clamp immediately it will cost them:
 - a) Locksmith fees
 - b) Loss of use of vehicle at £500 per day
 - c) £500 for administration of the matter by you
 - d) £500 for distress

Practical remedies include:

- Removing the clamped wheel and replacing with a spare
- Deflating the clamped tyre for easy removal of clamp
- Be careful not to damage the clamp as it is not your property

D. County Court Enforcement Agent (formerly Bailiff) – with Warrant for the Control of Goods to enforce a civil judgment

Avoid at all cost

- Opening the door
- Answering questions
- Engaging in any other way (no name, no admissions etc)
- Signing any document offered to you by the agent

- Taking hold of any document
- Admitting any debt

E. Magistrates Court Enforcement Agent – with Warrant for the Control of Goods to Enforce a Fine or Penalty

- The agent has to show the warrant on demand to the debtor: Part 52.8(2)(c) of the Criminal Procedure Rules 2013
- The warrant must be an original document with a wet-ink signature from a justice or justice's clerk and the court royal seal on it.
- The agent must be a certificated agent with a court registration number
- In the case of a contracted debt collector, recovery fees cannot be added to the warrant. That must be made part of a separate civil claim in county court.
- If the agent is accompanied by peace constables: the constable must check the agent's certificate and his warrant, and if he is unable to show both documents, then the constable is required to place the person under arrest for committing one of the following offences:

(a) Trespass under section 78(7) of the Road Traffic Act 1991 or

(b) The more serious offence of fraud by misrepresentation under section 2 of the Fraud Act 2006

as he is required to carry them in an intelligible form when attending a debtor's address.

- If you find illegality, then one option is for you to call a constable or give three trespass warnings and use reasonable force to remove agent trespasser.

Remember:

[1] no consent or cooperation with warrant = no entry and no deal!

[2] no proof of legality/genuine warrant = agent can be arrested for either trespass or fraud in documentation

This is also true of clamping a vehicle – which requires your consent (see above for clamping remedy against private debt collector)

F. Court enforcement agent (formerly bailiff) – with alleged warrant of possession by landlord.

1. Ask to see their warrant and take a photograph of it. Take note if the warrant/order has a court stamp and/or the signature of an agent of the court. Court warrants do not show Bailiff fees – these are usually placed on a re-printed version of the warrant which is not lawful.
2. Ask for:
 - Court agent certificate number?
 - Details of the County Court that certificated them?
 - Their business name and address?
 - A full breakdown of their fees.
 - Ask if they have a Walking Possession Order; if so, ask them to hold it for you while you take a photograph. (Don't take hold of it if he offers it to you!)
3. If their warrant does not have either a court stamp or the signature of a court official or both then tell them politely and kindly that it is invalid and why.
4. 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.
5. Take a photograph of the bailiff with your front door in the background.
6. Ask if they saw the notice at the front gate/front door – Private – By Appointment Only.
7. Tell them politely and kindly that they have committed the civil tort / offence of trespass, because they have failed to comply with your notice and that you will be pursuing damages in court.
8. As they depart go with them and take photographs of them leaving your property (ideally with the notice in the background).
9. You now have the evidence to pursue them in the County Court and can make a small claim against them. In the UK claim via: www.moneyclaim.gov.uk

Remember: no genuine warrant = no entry and no deal

G. Some key lawful facts and precedents

- a. Bailiffs cannot apply force to a door to gain entry. If they do so they are not in the execution of duty. See *Broughton v Wilkerson* [1880] 44 JP 781.
- b. Bailiffs cannot force their way into a private dwelling. See *Grove v Eastern Gas* [1952] 1 KB 77.
- c. A person performing certificated work without a certificate commits an offence. See Section 63(6) of the Tribunals Courts and Enforcement Act 2007.

- d. A person not a certificated bailiff conducting **levy** (debt enforcement by seizing goods) is in trespass, *Hawes v Watson* [1892].
- e. Debtors can also remove implied right of access to property by telling a bailiff to leave. See *Davis v Lisle* [1936] 2 KB 434 similarly, *McArdle v Wallace* [1964] 108 Sol Jo 483.
- f. 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. See *Morris v Beardmore* [1980] 71 Cr App 256.
- g. The debtor's home and all buildings within the boundary of the premises are protected against forced entry. See *Munroe & Munroe v Woodspring District Council* [1979] Weston-Super-Mare County Court.
- h. If a bailiff enters by force he is there unlawfully and you can treat him as a trespasser. See *Curlewis v Laurie* [1848] or *Vaughan v McKenzie* [1969] 1 QB 557.
- i. 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. See *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.
- j. 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. See *R v Howell (Errol)* [1982] 1 QB 427.
- k. 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. See *Buller's Case* [1587] 1 Leonard 50 or *Andrews v Bolton Borough Council* [2011] HHJ Holman, Bolton county court, June 2011.

The People's Lawyer web site <http://thepeopleslawyeruk.com> has other relevant materials on the [Free Downloads | The People's Lawyer](#) page including:

- Trespass Notice
- Personal Protection Card with Personal Liability/Accountability Notice
- Legal Entrapment Card with Fee Schedule
- Statutory Rejection Notice
- WHO Treaty Non-Consent Notice

Disclaimer – none of the above is to be considered legal advice



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