

## COUNCIL TAX ARREARS

Many people are understandably worried that bailiffs might come and remove goods from their home if they can't pay a debt. It is important to know that you have rights and that there are strict guidelines laying down what bailiffs can do and when.

### Recovery of Council Tax Arrears

- No bailiff action can be taken against you unless a liability order has been made against you in the magistrates' court. This can be done if you have not paid either in a single instalment or in the agreed instalments at the correct times as set out on your original Council Tax bill. Court costs are added to the order and you will receive a separate liability order for each financial year where there are arrears.
- Where a liability order has been made, the council will ask you to provide information about your income and expenditure and it is possible to agree an arrangement with them. If you do not contact the council or cannot come to an arrangement, the council can try to recover the money you owe using several methods including bailiffs.
- If you receive a 'notice of intended bailiff action' for Council Tax arrears, contact the council immediately to see if you can come to some arrangement with them. Once your account has gone to external bailiffs the council will not negotiate with you and will only very rarely recall it from the bailiffs. However the bailiffs will eventually return the account to the council if they are unable to get payment or goods from you.
- If you are on Income Support, Income-based Jobseeker's Allowance, Income-based Employment & Support Allowance

or Pension Credit the council may agree to take a weekly amount from your benefit instead of taking bailiff action. However, this depends on the amount you owe.

- If you work, the council can apply for an attachment of earnings from your wages at fixed percentage rates. Up to two attachments of earnings can run at any one time. However, in cases of hardship, the council can decide to use only one at a time.

### If the debt is already with the bailiffs:

You do not have to let them into your property unless they have what is called a 'levy' – see below for details of this and bailiffs' rights of entry. The bailiffs can also add costs and will want to collect not only the outstanding bill but also their costs. You may receive demands for separate amounts of money, one for each liability order, which the council has passed to the bailiffs.

- Bailiffs will try to obtain payment in full at first and can be reluctant to accept instalments. However local authorities usually issue guidelines confirming that bailiffs should consider instalment arrangements if payment in full is not possible. The bailiffs should take account of individual circumstances.
- If the bailiff has not taken a levy (made a list of goods), then you have more room to negotiate: Make an offer, in writing, to pay

## **COUNCIL TAX ARREARS**

them an affordable amount each week or month. Keep a copy and send one to the council. If your offer is not accepted, at least you have proof for later that you co-operated and tried to pay what you could.

- Do not be persuaded to make an offer of payment to them that you can't afford.
- If you do make a payment, make sure you get a receipt and that you check how much you still owe. Bailiffs take their costs before passing the money to the council. Ask for explanation of any costs that are not clear.
- If the bailiffs cannot get enough payments or goods from you, they will return the account to the council for more action by them. They may tell you that if it goes back to the council you will be taken to court to be sent to prison. This is not entirely true and you should not be persuaded into paying more than you can afford. See 'The council's next steps' below.

### **Rights of Entry for Bailiffs**

The council bailiffs or private bailiffs do not have the right to enter your home using force unless they already have a 'levy' on your goods (see below). But they may add an extra charge to your debt for each bailiff visit.

Please note - if a door or window is left open and bailiffs get in without using force, you cannot stop them taking a levy or removing goods (or both).

Bailiffs can take a levy or remove goods (or both) that are outside or in an unlocked garage or shed (for example a car or garden tools).

You may be able to stop a car being taken if you can show that you must have use of a car. Contact the helpline for more advice.

The Police can only be involved if the bailiffs feel that there may be a 'breach of the peace'. Any police role would only be to prevent this happening and they cannot help the bailiffs to force entry (where a levy has been taken) or to seize goods. If any bailiff threatens to use the police for any other reason, take a note of what is said and contact us for more advice.

### **What is a "Levy"?**

If bailiffs are allowed into your property, they can make a list of 'non-essential' goods that they think will be sufficient to be sold at auction to clear your debt. This is called "taking a levy".

Once bailiffs have taken a levy, you lose the right to refuse them entry over the debt for which the levy was taken. So they can return to remove the goods which have been levied for sale at auction and if necessary force entry to do so.

If you think that the goods are not worth enough to clear one or more of the liability orders then please ring the helpline for further advice.

You are not allowed to sell or dispose of goods on which a levy has been placed.

*Please note that the above refers to private bailiffs acting to enforce a distress warrant – which means they can only try to get payment or goods. It is also possible for private bailiffs to act to enforce an arrest warrant to bring you to the magistrates' court for a committal hearing.*

## **COUNCIL TAX ARREARS**

### **The Council's next steps**

If bailiff action has been tried and the council has not been able to get a payment from you, they can consider some other action. This can also happen if the bailiffs haven't been able to take goods to the value of the amount you owe. The council will only seek the amount(s) of Council Tax that you owe plus related council costs, not the costs which any outside bailiffs added while the account was with them.

- The council may ask for money to be taken from your benefits or wages.
- If the debt is for more than £1,000 and you own your own home, they could ask for a 'charging order' to secure the debt on the property.
- If the debt is more than £750.00 and you own your own home, they could petition for your bankruptcy.
- You may receive a letter advising of possible 'committal' court action. See the next section for details.

If you receive any letters from the council about any of these, it is still worth contacting them to see if some affordable arrangement is possible.

### **Can I be sent to prison?**

If you receive a summons to a committal hearing at the magistrates' court, you must attend, otherwise you can be arrested and brought to the court.

If you are told that a 'warrant with bail' has been issued you should contact the council or the bailiff who holds the warrant so that you can be 'bailed' to attend court on a particular day. This means you will not be taken into custody as long as you agree to come to a court hearing to consider your circumstances.

Although the magistrates have the power to put you in prison for not paying, this is very rare. Before considering a prison sentence, the magistrates must be satisfied that you have deliberately refused to pay or been careless or thoughtless in not paying ('wilful refusal' or 'culpable neglect'). Prison is very much a last resort.

At a committal hearing, the magistrates will examine your past and present financial circumstances and reasons for not paying. If they feel that you are suffering hardship, some (or all) of the debt may be 'remitted' (written off) or an order may be made for affordable payments.

**IMPORTANT:** Bailiff action is a complex area of law. The information given above is only a summary and you should obtain further advice if you are in any doubt about your rights.

If there are other debt issues (perhaps related to this one) which you wish to discuss please contact Bristol Debt Advice Centre on 0117 954 3990 for further advice and information.