

BAILIFFS - MAGISTRATES' COURT FINES

Bailiff action can cause a great deal of stress. It is important to know that you have rights and that there are strict guidelines laying down what bailiffs can do and when.

Some basic information about your rights and the way to deal with this type of action is shown below, but if you are in any doubt please seek further advice.

Bailiff action for Magistrates' Court Fines

A fine is passed out to bailiffs when you do not pay a fine as ordered by the court or you fall behind with instalments. The court does not need to send reminders but you would receive notice of a "Distress Warrant" when the case is passed to bailiffs. The court will not then get involved in any arrangements while the bailiffs have the case.

The bailiffs will add costs for each letter or visit and will want to collect not only the fine but also their costs. These can quickly mount up.

Bailiffs do not usually agree to accept small amounts due to the time it would take for them to collect the total. However it is worth making an offer, in writing, to pay them an affordable amount weekly or monthly. Keep a copy. If they do not accept, 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 often take their costs first out of your payments.

If the bailiffs are not able to enter your property and take goods to the value of the fine and costs (or if there are no goods of enough value

to pay the whole amount) the case will be returned to the Magistrates' Court. See below for details about bailiff entry.

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 Court for a hearing. (However Bristol Magistrates' Court use only their own court officers or the police to enforce arrest warrants.)

What happens if the bailiffs return the case to the Magistrates' Court?

The Court will only be looking to recover the amount of the original fine which is still due (not the bailiff costs). You may receive a summons requiring you to attend a hearing at the court. If you do not attend an arrest warrant may be issued (see below).

The court can also issue an arrest warrant.

If this is "with bail" you must agree to attend a hearing on a certain date. If you do not attend an agreed hearing you can be arrested and brought to court.

If this is "without bail" you can be arrested and brought to court straightaway. In that case contact the court and ask if you can agree a time to attend voluntarily.

At a hearing you will have the opportunity to explain why you were unable to pay the fine. You should take a list of your income and

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expenditure with you so that the Magistrates can see your situation. If your circumstances were not known when the fine was originally made, it may be possible to have the fine reduced.

The Magistrates can do the following at a hearing:

- Order payment by instalments based on your situation
- Write off all or part of the fine
- Search you for cash on your person
- Order someone to supervise you to ensure payment
- Make an attachment of earnings order
- Make a deduction from Income Support or Jobseekers Allowance (£5.00 per week)
- Order defendants aged 18-25 to attend an Attendance Centre
- Increase the fine
- Clamp and, if necessary, sell a vehicle
- Register the fine default on your credit reference file
- Make an unpaid work order
- Order you to sit in court for the rest of the day (which would write off the fine)
- Make a suspended prison sentence
- Make an immediate prison sentence

Note: Before making a prison sentence the Magistrates must be satisfied that you have deliberately refused to pay or been careless or thoughtless in not paying. Prison is very much a last resort.

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.

Rights of Entry for Bailiffs

New legislation came into force in July 2005 which enables "authorised officers" (another name for bailiffs) to force entry into premises without first being allowed peaceful entry. This new power must be used only as far as 'reasonably required' and only if the bailiff has 'reasonable grounds' for believing that the debtor is on the premises.

- Bailiffs are able to take a levy and/or remove goods that are outside or in an unlocked garage/shed (e.g. a car or garden tools).
- A vehicle cannot be taken where it is needed for use in your employment, business or vocation.
- The police can ONLY be involved if the bailiffs feel that a breach of the peace may occur. The Police can only act to prevent a breach of the peace and cannot assist the bailiffs in forcing entry or seizing goods.
- You have the right to complain about improper behaviour by a bailiff.

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 sell at auction to clear your debt. This is the levy.

Once bailiffs have taken a levy, you lose the right to refuse them entry. So they can return to remove the levied goods and, if necessary, force entry to do so.

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