

Bailiffs – What you need to know

About this leaflet

This leaflet describes the warrant recovery process in relation to penalty charge notices (PCNs) issued by Transport for London (TfL).

It explains why you have received communication from a bailiff and what you should do to settle the outstanding debt.

It outlines what rights you have and what you may expect from a visiting bailiff. It also explains what kind of items may be removed by the bailiff and the code of conduct bailiffs acting on our behalf subscribe to.

Why have I received a letter/visit from the Bailiff

You have received a letter and/or a visit from a bailiff because TfL has a record of a PCN being issued to you which remains unpaid and for which TfL has no record of an outstanding representation or an appeal.

Following escalation of the penalty charge, TfL has now registered it as a debt with the Traffic Enforcement Centre (TEC), at Northampton County Court. Following this, TEC has authorised TfL to issue a warrant of execution to a bailiff for recovery of the outstanding debt. This now includes the outstanding penalty charge amount owed to TfL plus statutory fees which have been incurred as a result of bailiff enforcement action.

It is important that you contact the bailiff company directly if you have any enquiries regarding the outstanding debt.

Despite a warrant of execution having been issued with TEC's authorisation, this does not result in a County Court Judgement (CCJ) being registered against your name or address. In addition, it does not affect your credit rating in any way.

You have the right to challenge the registration of the debt by making an application to file (dependant on the type of contravention), either a Statutory Declaration or Witness statement, Out of Time.

When submitting such an application you must explain your reasons for not completing within the original time limit. Such a reason may be that you have moved address and did not receive the Order for Recovery. These reasons may be accepted or rejected by the Local Authority. If they are rejected, then the case will be referred to a Senior Officer of the Court at the TEC who will determine whether the application should be granted or refused.

Please be aware that TfL will review each application submitted Out of Time and may challenge the application in the event that:

- There is evidence that you knew of the Penalty Charge Notice
- You have failed to update the Driver and Vehicle Licensing Agency (DVLA) with your correct details
- You are still resident at the address to which correspondence was sent
- There are other grounds under which the application can be challenged.

For further guidance on submitting an application Out of Time, please refer to the TEC website www.hmcourts-service.gov.uk or contact their helpdesk on 0845 704 5007.

If you have submitted an application to file a Statutory Declaration or Witness Statement Out of Time, you should make the bailiff aware of your circumstances and provide them with evidence of the application.

What are my rights

If the outstanding debt is not settled in full the bailiff may remove goods from your property.

If you are contacted or visited by a bailiff working on TfL's behalf, the following information may be useful to you in your dealings with them:

- To recover an outstanding debt a bailiff must have knowledge of a valid warrant of execution authorised for issue by TEC; the details of the warrant must be stored by the bailiff company electronically and made available in hard copy, upon request. A warrant of execution expires 12 months after the date of issue to the bailiff company and may not be used to support recovery of an outstanding debt, after this time
- Bailiffs acting on TfL's behalf must be county court certificated and this certification must be carried with them and shown on request. Details of all certificated bailiffs can be found on the Her Majesty's Courts Service (HMCS) website at www.hmcourts-service.gov.uk/CertificatedBailiffs
- You have a right to confidentiality so the bailiff must not discuss your case in detail with a third party unless authorised by you to do so
- The bailiff is obliged to provide you with a clear explanation of their fees and any other charges which apply to the recovery of the outstanding debt
- A bailiff cannot deal with minors.

Examples of items which may not be removed by a bailiff are:

- White goods such as fridges, cookers and washing machines

- Bedding
- Children's toys
- Clothing.

Examples of items which may be removed are

- Televisions
- Radios
- Home entertainment systems
- Video and camera equipment
- Luxury goods
- Vehicles.

In certain circumstances, and at the discretion of the bailiff, it may be possible to enter into a payment arrangement. The terms of the arrangement must be discussed directly with the bailiff and once entered into, the arrangement must not be broken, otherwise, enforcement action will continue and further requests to pay by instalments are likely to be rejected.

In certain circumstances a bailiff may exercise discretion regarding the execution of the warrant, for example if the debtor is elderly, in ill health, is pregnant or is in prison.

Payments and receipts

If you make a payment to the bailiff they are obliged to provide you with a receipt. If you are paying by a debit or credit card it will be necessary for the bailiff to authorise the transaction. The bailiff must ensure that authorisation is carried out in front of you. If you have had goods removed from your property it is necessary for the bailiff to provide you with a full inventory.

If you are making payment via the bailiff's office, they will advise you of the payment channels open to you and if a receipt is required, this should be requested at the time payment is made.

Complaints

TfL expects every bailiff working on its behalf to act correctly at all times. Should you wish to make a complaint about any aspect of the bailiff enforcement process, you should first contact the bailiff company concerned and ask for details of their complaints procedure. If you are not satisfied with the response you receive and if TfL have not already considered your complaint you may refer matters to:

Head of Contracted Services
Congestion Charging &
Traffic Enforcement Directorate
Transport for London
4th Floor, Palestra
197 Blackfriars Road
London SE1 8NJ

Other information

There are two Bailiff Trade Associations – the Association of Civil Enforcement Agencies (ACEA) and the Enforcement Services Association (ESA) – which you may wish to contact for advice, or for review of a complaint, should you remain dissatisfied with the service you have received. Please note that neither organisation will consider a complaint if it is currently being dealt with by another body (such as TfL or the bailiff company). It is advisable that you receive an outcome to an outstanding complaint before asking either ACEA or ESA to review matters.

Alternatively, you may choose to contact them in the first instance, before making your complaint to either the bailiff company concerned or TfL.

ACEA

Association of Civil Enforcement Agencies

513 Bradford Road

Batley

West Yorkshire WF17 8LL

Telephone: 01924 350090

Fax: 01924 474441

E-mail: info@acea.org.uk

Website: www.acea.org.uk

ESA

The Executive Director

Enforcement Services Association

Park House

10 Park Street

Bristol BS1 5HX

Telephone: 0870 3007255

E-mail: enquiries@ensas.org.uk

Website: www.ensas.org.uk

To challenge a bailiff's suitability to hold a certificate, you may apply to the court which granted the bailiff's certificate. You will find this information on the bailiff's certificate or you may call HMCS on 0845 456 8770, providing them with the name of the bailiff and the company the bailiff works for. Alternatively, you can find the court which granted the bailiff's certificate on HMCS website at www.hmcourts-service.gov.uk/CertificatedBailiffs

In addition, the HMCS and Ministry of Justice websites have some useful information regarding the bailiff enforcement process and the complaints procedure, which can be found at:

www.justice.gov.uk

www.hmcourts-service.gov.uk

If you feel the bailiff has charged excessive fees in the execution of the warrant, then you may apply to the courts for the fees to be assessed.

It may be advisable to seek independent legal advice on this matter before proceeding as there is a fee for this service.

Data Protection

TfL, its subsidiaries and service providers, will use the personal information you provide for the purposes of processing PCNs, customer services and administration. Your personal information will be properly safeguarded and processed in accordance with the requirements of the Data Protection Act 1998.

Please note this document is for guidance only. It is not comprehensive as TfL cannot anticipate all scenarios and eventualities. You may wish to seek independent legal advice.

Information correct at time of going to print – September 2010

 Website
tfl.gov.uk

 24 hour travel information
0843 222 1234*

TEBA/10

*You pay no more than 5p per minute if calling from a BT landline. There may be a connection charge. Charges from mobiles or other landline providers may vary.