

Guidance for Police Officers and their personal liability when attending evictions and home recaptures. Civilians have lawful rights to defend their property



1) Introduction:

- a) It is crucial Police Officers know Civilians' rights and understand how to lawfully protect Civilians' lives and Human Rights and property from attack.
- b) Police officers must gain a foundation of knowledge and experience in the execution of duty according to the rule of law. Ignorance is no defence.
- c) Officers must NOT wilfully refuse or neglect to discharge any lawful duty. To do so may constitute **Misconduct in Public Office** to varying offences and breaches including; Misfeasance, Nonfeasance and malfeasance which can include **life-imprisonment**.
- d) Police need question why alleged unlawful evictions are happening. Many are due to fraud/ deceit by banks' own staff, where victims have been predatory attacked by bank staff, bank lawyers as allowed to happen under State failure of Home Office, Treasury, Politicians and regulators.
- e) Police Officers need to stay calm and assess any threat to all parties, especially Home Owners, vulnerable persons AND to changes that may occur during tension at a civil eviction attempt where a location may require **ongoing assessment in respect of Health and Safety**.

2) Police Officers Must Uphold i) Your Oath including ii) ECHR's:

- a) Every constable is an independent legal entity; the public's guarantee of impartiality without fear or favour. Officers of the Crown must operate independent of undue influence, interference and with a **personal responsibility**. Each police officer **has personal liability and accountable for their actions or in-action**.

Officers (Constables) swearing allegiance as below:

*"I do solemnly and sincerely declare and affirm that I will well and truly serve the King in the office of constable, with **fairness, integrity, diligence and impartiality, upholding fundamental human rights** and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and **prevent all offences against people and property**; and that while I continue to hold the said office **I will to the best of my skill and knowledge discharge all the duties** thereof faithfully **according to law.**"*

3) Impartiality:

When senior Officers carry out risk assessment Officers must be; impartial, non bias (ie you are not attending just for the Bailiffs of HCEO's). Police Officers are personally accountable for their actions. Any forced actions of Bailiffs could be common assault. In such instances Police should stay any assault by Bailiffs and arrest Bailiffs of HCEO's for their actions.

4) Peel Principles:

- a) The first “*principles of policing*” were introduced by **Sir Robert Peel**. His most memorable principle was: “The police are the public, **and the public are the police.**”
- b) **Sir Robert Peel** emphasized that police officers should focus on preventing crime and maintaining order, rather than taking on judicial roles. Officer’s primary mission is to serve the community and secure public approval through impartial service to the law. By adhering to this principle, law enforcement agencies can build trust and cooperation with the public. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.

5) Section 26 - Criminal Justice and Courts Act 2015:

- a) **Section 26 makes it an offence for a police officer and certain other persons to exercise improperly the powers and privileges of a constable.**
- b) It supplements the existing common law offence of misconduct in public office and provides that a police constable (defined in subsection (3)) **commits an offence if he or she exercises the powers and privileges of a constable improperly and the officer knows or ought to know that it is improper.**
- c) Subsection (2) provides that a person guilty of the offence is liable on conviction on indictment to a sentence imprisonment of 14 years or a fine, or both.
- d) **Subsection (4) provides that a police constable exercises the powers and privileges of a constable improperly if the exercise of a power or privilege is for the purpose of achieving a benefit to the officer, or a benefit or detriment for another person,** and that a reasonable person would not expect the power or privilege to be exercised for the purpose of achieving that benefit or detriment.
- e) Subsection (9) defines “benefit” or “detriment” as meaning any benefit or detriment, whether or not in money and whether or not permanent.
- f) **Subsections (5) to (7) define further what is meant by the improper exercise of a power or privilege for the purpose of the offence. They refer to cases in which there is a failure to exercise a power or privilege, or there is a threat to exercise a power or privilege or to fail to do so,** in each case for the purpose of achieving a benefit or detriment (defined in subsection (9)) and in any of these cases a reasonable person would not expect the power or privilege to be exercised for the purpose of achieving that benefit or detriment.



6) Bailiffs/ HCEO’s as defined in the House of Commons:

House of Commons Library // Bailiffs 9 June 2023) – Conduct overview

- a) “**Enforcement officer**” is now the official name for bailiffs since revised regulations in 2014, although the term “bailiff” is still more commonly used.
- b) Instructing a bailiff is one method of civil debt enforcement. Different types of bailiffs are used to collect different types of debt on behalf of creditors (including local authorities, government

departments and private individuals seeking to enforce a court judgment). Some bailiffs are officers of the court, others are self-employed, some are employees of a private debt collection company.

The rules governing the regulation of bailiffs were completely overhauled on 6 April 2014.

- c) The different types of bailiffs include Certified Enforcement Officers, High Court Enforcement Officers, County Court Bailiffs, and Civilian Enforcement Officers.
- d) **Bailiffs must on request show the debtor evidence of their identity** and their authority to enter a property. Legally, they must also have given the debtor an enforcement notice, 7 days before they visit. (known as an enforcement notice).

7) Can Bailiffs (HCEO's) force entry?

Answer: NO

- a) In general, no, unless a court has granted permission.
- b) *Magistrates Court fines are totally different to civil courts.*
- c) **In a normal residential evictions HCEO's/ Bailiffs can NOT force entry**



8) Police MUST be mindful of Bailiffs who breach Parliamentary definition of Law:

- a) Police officers and Constables **MUST act in the Home Owners interest and protect Civilians Rights without bias or ignorance.** Ignorance of the Law is not a defence for Officers or Constables.

9) An alleged debtor does NOT have to let Bailiffs into their home:

- a) when they knock on the door.
- b) Bailiffs are **NOT allowed to push past an individual to gain entry or jam their foot into a door** to prevent it being shut.
- c) Bailiffs can legally visit a debtor's home or business premises on any day of the week, but enforcement can only happen between 6 am and 9 pm (unless a court order specifies otherwise).
- d) Anyone over the age of 16 can let a bailiff into the property. The bailiff must withdraw without making enquiries if the only person present is a child under 12 years old. If the only person present is a child or is a vulnerable person, the bailiff cannot take control of goods.

10)i) Rule of Law and ii) Due Process:

- a) This guide is to assist police officers and constables uphold the Rule of Law and Due Process. **OFFICERS ARE PERSONALLY LIABLE.** The Home Secretary is answerable to Parliament **and the public** for the provision of an efficient and effective police service.
- b) Police should note if there are any ongoing Court hearings. **Liberty of the Subject 1354** states: That no man (or woman) ***should be put out of Land*** or Tenement, nor imprisoned ***without Due Process.***

11)False Instruments to deceive Police for false gain

- a) What evidence does an Officer have that a Court Order or Writ is a true document and not a false instrument?

- b) It is an Offence to i) create, ii) hold and iii) present and issue a “false instrument” under the Forgery and Counterfeit Act 1981

(1) Section 1 Forgery Act 1981 states:

- (i) *A person is guilty of forgery if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person’s prejudice.”*
- (ii) It must be shown that D intended for the false instrument it be used to induce somebody to accept it as genuine and, by reason of so accepting it, to do or not to do some act to his own or another’s prejudice: *R. v. Mary Sylvia Campbell (1985) 80 Cr.App.R. 47, CA.*
- (iii) An intention to induce another to accept a copy of a forgery will also suffice: *R v Ondhia (1998) 2 Cr.App.R 150 CA*
- (iv) "Instrument" - the definition for instrument is found at section 8 Forgery and Counterfeiting Act 1981

12) Bailiff (HCEOs) Forced Entry is NOT allowed: House of Commons.

- a) Bailiffs and High Court Enforcement Officers (HCEO) and their agents in observance of the law may not force their way into a person’s home in a civil instance.
- b) This is stated in the House of Commons the Highest Court of the People in the Land which sits between the i) House of Lords and ii) HM Privy Council being the highest Court of Appeal (even above the UK Supreme Court).

13) Observance of the Law:

Police Officers must observe People’s Rights:

- a) Useful Homeowners’ Rights include;

- i) **The “Castle Doctrine”:**

Homeowners have the right to protect their homes under the “castle doctrine.” This principle allows you to defend your property against unlawful entry.

- ii) **Police should observe where past Officers have misunderstood the law of the land.** See two example cases at the end of this document. Ignorance is no defence for Police Officers.



14) ECHR (European Court of Human Rights):

Peaceful Occupation and Mental Health



- i) **Right to Peaceful Non-Tortuous Occupancy ECHR Article 8:** The European Convention on Human Rights (ECHR) protects your right to a peaceful life in your home and communications. This means that on Police seeing that entry is not going to take place they are required to ask bailiffs to leave as to stop the Home Owner, their family and guests fearing distress and alarm and harassment. People have a right to peace in their home
- ii) **ECHR Article 3:** The European Convention on Human Rights (ECHR) protects your rights that no one shall be subjected to physical OR psychological torture or to inhuman or degrading treatment or punishment.
- iii) The **UN Convention on the Rights of the Child (UNCRC)** is an important, legally binding agreement signed by 196 countries (as of 12 July 2022) which outlines the fundamental rights of every child, regardless of their race, religion or abilities. There are 54 Articles that cover all aspects of children's rights.



15) Crime of Crime Against Humanity

- a) Victims who suffer psychological torture (ECHR3) due from for example i) banks, their lawyers, auditors, b) and ii) UK State Officials such as Politicians, Regulators, Law enforcement including failure of SO15, the MET may find they have reason to raise claim of criminal mis-justice against the UK State for failure of HM

Administration to uphold policing, law enforcement and judicial rule of law for HM Subjects, the Civilians of England, Wales, Scotland and N. Ireland.

- c) A combination of failure of financial services executives and misconduct in public office equates in many cases to the Offence of Article 7(1)f of The International Criminal Court Act 2001, as aligns with the elements found in the Rome Statute.

16) Police Accountability

- a) **Oath and Duty:** Police officers swear an oath to protect people and property. They must uphold this duty impartially.
- b) **Misfeasance:** Officers must not misuse their powers or act improperly.
- c) **Nonfeasance / Malfeasance** (the bad one).
- d) **Civil Trespass:** Police should avoid forced entry where Parliament prohibits it such in residential.

17) Police Un-Lawful blocking entry

- a) **Police must not show bias; OR unite in assisting Bailiffs (HCEO's) block access.**

This includes police **NOT** linking arms with Bailiffs.

18) **Officers KEEP assessing the situation / Home owners have RIGHTS:**

- a) Home Owners and Police Officers need to stay calm and assess any threat. If Bailiffs and their staff act thuggish and use force to enter a home or police wrongly assisting in a civil dispute then Home Owners have a right to defend their castle.
- b) The Castle Doctrine which is where the saying "**A man has the right to defend his Castle**" comes from British Judges. Such as; **Regina v R White**. A homeowner may also fortify their doors beyond standard locks.

19) **Recapture process by Civilians in residential home instances:**

- a) So long as a home owner has a lawful right to be in their property, the home owner has the right to enter their home, their property. * Officers should note there is difference in civil and common law
- b) If a party has criminally taken a person's property such as through deceit. Then the victim over any legal wrong or abuse or criminal action has right to be in their home.
- c) **Recapture:** If someone unlawfully enters your home (e.g., bailiffs), you have the right to defend and recapture possession. Here's how:
- d) **Force:** You may use reasonable force to remove intruders without causing harm.
- i) **Police Assistance:** Call the police immediately and explain the situation. They should assist you in removing unauthorized individuals.
- ii) **Senior Officer Identification:** Police attending must identify the senior officer and confirm who authorized their presence.
- iii) **Police should be very wary of ECHR and also International Human Rights**



20) **Example Cases of Police Misconduct**

- a) **Sheerness Case (Daily Mail, 24 March 2022):**
- i) A homeowner was Tasered and punched by police while defending his home against repossession. The court ruled that officers unlawfully trespassed. (Regina v R White)
- b) **Nottinghamshire Case (BBC, 12 November 2022):**
- i) A woman received £40,000 compensation after police unlawfully entered her home and arrested her.

21) **Common Law and Legal References and Principles**

- a) **Article 45 - Magna Carta 1215:** Appoint appoint as justices, constables, sheriffs, or other officials, only men that know the law of the realm and are minded to keep it well.
- b) **Liberty of the Subject 1354:** Prevent removal from home during lawful process.
- c) **Observance of Due Process 1368:** Ensure due process is followed.

22) From Theft of Homes to Home Office Responsibility

- a) Ultimately, police have a line of command. The Chief Constable is responsible for the training of officers and operational risk.
- b) Under The Police Reform and Social Responsibility Act 2011, Police Crime Commissioners (PCC's) were introduced to hold Chief Constables to account for failure and adequate Crime Plans. Above the PCC is the Police Crime Panel (PCP) and above a monitoring officer. Prior to 2011 main Police structure came from the Police Act 1996. STATUTORY INSTRUMENTS 2011, No. 2744 provides backstop to sections 40 a and 40 b of the Police Act 1996 which provides ultimate powers under national security for the State to Protect UK civilians.
- c) Section 134 of the Criminal Justice Act 1988 applies to Public Officials. Under section 134 of the Criminal Justice Act 1988, the offence committed by a public official (or someone with the official's acquiescence) of intentionally inflicting severe physical or mental suffering on any person anywhere in the world. It carries a maximum sentence of life imprisonment.



23) To Finalise Police Officers - Remember homeowners have lawful and legal rights.

Police Officers should stay informed, stay calm, and seek advice when needed. **Home Owners Rights must be upheld** to protect people's homes within the bounds of common law and statute.

- a) Homeowners facing eviction may have evidence alleging bank fraud may have taken place. Such concerns should be taken seriously and investigated. **Help others. Stand together. Fight crime.**

24) ** This information is in relation to: x

x

- a) has been served upon:

- i) Officer(s)

- ii) Police Chief:

- iii) PCC:

- iv) Constabulary/ Force:

Date:

- v) Served by:

- vi) Reporting Person's Contact details: