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# Dealing with Enforcement Officers

Student Notes

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# Contents

<b>1. Dealing with Enforcement Officers .....</b>	<b>4</b>
1.1 Overview .....	4
1.2 Introduction .....	4
1.3 Who are EOs and who do they work for? .....	5
1.4 What do EOs do? .....	5
1.5 The role of the police .....	7

# 1. Dealing with Enforcement Officers

## 1.1 Overview

These notes provide the basic awareness and knowledge requirements of police officers engaged in “non-crime” incidents of working with Enforcement Officers (bailiffs) when the latter are executing their duties of debt recovery. The notes are intended to complement other relevant Initial Learning and Development Programme materials (principally Other Policing Incidents), national and local force policies and good practice. They should not be regarded as definitive legal reference or specialist guidance.

These notes satisfy the learning outcomes for this module specified on the National Policing Curriculum, namely:

- Who Enforcement Officers are and who they work for
- What Enforcement Officers do
- The role of the police when attending incidents involving Enforcement Officers

These notes are for Police Officers and IL4SC Phase 3.

## 1.2 Introduction

These notes outline your powers and the correct action to take (and importantly, what not to take) when called to potentially serious disputes over money and property involving Enforcement Officers (EO).

It is vital that you act impartially in circumstances that can be stressful to all parties, but if it is necessary to take action you should do so positively. The Enforcement Officers should have a clear idea of the law, their powers and the finer details of the matter in hand, i.e. who owes what to whom and why etc. but the “debtor”, i.e. the person receiving the visit, might not. The debtor could therefore feel threatened and overwhelmed in the face of what they may perceive as unreasonable behaviour or over-robustness. Alternatively, the debtor might be fully aware of what is going on but be wrongly over-zealous in protecting or retaining their property when they have no right to do so.

Some of these incidents go relatively smoothly, at least as far as police involvement goes, but others do not and there is the potential for them to flare up.

## 1.3 Who are EOs and who do they work for?

An Enforcement Officer (EO) is a person legally authorised to collect a debt on behalf of a creditor and may be employed by any number of debt collecting organisations. They are civilian employees of court-appointed private companies (commonly known as debt collectors) and used to be more widely known as “bailiffs” or “sheriffs” although the term EO is now favoured.

They are, in effect, debt or recovery agents and can also be called:

- Certificated EOs
- High Court EOs
- County Court and/or Family Court Bailiffs
- Civilian EOs

As with door-keepers for example, who should be members of and accredited by their own Security Industry Association, EOs should be certificated and are likely to be members of the High Court Enforcement Officers' Association (HCEOA). The HCEOA has its own website that contains further interesting detail should you require it. Likewise, the UK's official .gov website contains the National Standards for EOs and this also contains further detail should you need it – both lay out the EO's Codes of Conduct at length.

## 1.4 What do EOs do?

Essentially they recover debts in person, in the form of monetary payments or property recovery to the value of the debt, arising from court judgements against a debtor. Such debts can arise and court judgements be made from them through a variety of circumstances and recovery can be sought by way of warrants or writs for such things as:

- Unpaid taxes or fines
- Overdue/unpaid maintenance payments from an ex-spouse
- Unpaid compensation
- Unpaid parking fines
- Commercial rent arrears arising from landlord/tenant disputes
- Goods under default because of unfulfilled liabilities in a hire purchase agreement

The EO may seek to walk away with cash, a cheque or a debit/credit card payment to the exact value of the adjudged debt, or property to the same value.

Whatever it is they are after they should behave not only in terms of the law (both civil and criminal) but also in accordance with the Codes of Conduct laid down by the HCEOA.

The usual authority of an EO, i.e. what gives them their power to act in any given circumstance, is a warrant or writ issued by the court to recover goods or money owed, or goods to the value of monies owed, where the creditor has applied to the court for such a warrant. The type of court and warrant will depend on the type of debt but the key thing to remember is that an EO, provided they act lawfully, will be enforcing a court judgement and is fully entitled to do so.

EOs cannot:

- Generally speaking, they cannot enter a home by force, e.g. push past or break down doors etc. However, you should note that they can “reasonably” force their way in to collect unpaid criminal fines, Income Tax or Stamp Duty but only as a last resort:
  - A power to enter premises by force exists for the execution of High Court and County Court debts at business premises or at any premises where an enforcement agent is enforcing **criminal** penalties. This power should only be used to the extent that it is reasonably required and only after the debtor has been warned that the power exists and what the consequences of a wilful refusal to cooperate might result in
  - A power to re-enter premises by force applies to both residential and business premises where a controlled goods agreement is in place and the goods remain on the premises but the debtor has failed to comply with the repayment terms of the controlled goods agreement. This power should only be used to the extent that it is reasonably required and only after the debtor has been given notice of the enforcement agent’s intention to re-enter
- They cannot enter if only children under 16 or vulnerable people are present. The HCEOA Code of Conduct outlines their definition of vulnerable:
  - the elderly
  - people with a disability
  - the seriously ill
  - the recently bereaved

- single parent families
- pregnant women
- unemployed people
- those who have obvious difficulty in understanding, speaking or reading English
- They cannot enter between 2100 and 0600 hours nor can they enter on Sundays, Good Friday or Christmas Day
- They cannot enter through anything other than a door or usual means of entry

EOs must give at least 7 days' notice of their first visit to the person they are intending to visit.

## 1.5 The role of the police

The bottom line is that your role is purely to prevent any Breach of the Peace or prevent any crime. You may well be asked to attend by EOs if they are anticipating problems or be called to premises by the debtor/occupier if they are disputing the actions of an EO.

Your role, as with any other civil dispute, is to prevent a Breach of the Peace by any party and you should only act with regard to this or any other offence(s) disclosed, e.g. assault or criminal damage by any party.

What you should not do:

- Challenge or otherwise comment on the perceived rights or wrongs of the court judgement – this includes the value (precise or otherwise) of the money or goods sought or the facts of the matter being dealt with or which gave rise to the visit
- Act as an arbitrator, mediator or negotiator, nor should you be drawn into any discussion
- Be seen as being in any way partisan
- Interfere in any way other than regarding Breaches of the Peace or criminality – this includes not helping anyone to lift, move or load anything

What you should do:

- Be mindful that some or all the parties might be wound up and stressed – the EO is entitled to be robust but should not be aggressive, although the two might well be confused in the mind of the debtor

- Consider establishing the bona fides of the EO relating to:
  - The company they work for
  - The EO's identity and certification, e.g. if they claim to be an EO and are not they may be committing fraud
  - Checkable contact telephone numbers, e.g. of their company or the relevant court
  - Possession by the EO of the relevant paperwork, e.g. the warrant itself and what it empowers them to do – their lawful authority
- Be aware of what the EO can or cannot do in the given circumstances, e.g. not use force to enter except in certain circumstances as outlined above
- Be aware of what an EO can or cannot remove or lay claim to:
  - They can take luxury items like TVs, computers, cars etc.
  - They cannot take things the person needs to reasonably survive, e.g. fridge, cooker, clothing, and work tools and work equipment which tools/kit added together are worth less than £1350
- Consider the implications of any party being especially vulnerable as outlined above
- As ever, be mindful of your duties/actions in the light of the National Decision Model and the Code of Ethics

If there is a court order and the property/money is handed over willingly, or some other arrangement is negotiated between the EO and the debtor, then all is well but it is an offence (usually a Breach of the Peace unless other elements are present) for any force to be used to obtain the property/money, other than reasonable force to gain entry as outlined above.

Remember that an EO is fully entitled to be robust, assertive and effective but must not be aggressive or violent. To reiterate – whilst you should not actively assist either party, if the EO were to be hindered in any way then that might constitute a Breach of the Peace. It will be worthwhile refreshing your detailed knowledge in this important element of common law but here are a few pointers:

- There must be the clearest of circumstances and a sufficiently real and present (imminent) threat to the Queen's Peace to justify an arrest if a person was not, at the time, acting unlawfully



- The threat of a Breach of the Peace must come from the person to be arrested, whose conduct must be unreasonable, i.e. the arrest should target the potential offenders and not non-offenders
- The conduct must clearly interfere with the rights of others
- The likely natural consequence of the conduct, were it not prevented, would be that violence would break out and in some circumstances that the violent conduct would not be wholly unreasonable, e.g. a person being abused by the individual making the threats might react to his tormentor
- Police officers must be very careful when arresting for Breach of the Peace. It is one of the few offences where a person may be arrested in order to prevent them doing something, without ever actually doing it, and you should make sure that the criteria outlined above have been met

In the case of *Bibby v Chief Constable of Essex Police* [2000] asking a bailiff to leave the premises, even though he was not the prime culprit of a potential Breach of the Peace, was considered to be a reasonable solution given the circumstances at the time. Be mindful, however, that EOs have their duty to perform so an action like this would need very compelling justification.

As ever, each incident is likely to be different and you will be called upon to use your best judgement. In an inflamed situation the temptation to make an arrest may be strong but in the case of, for example, a minor assault or minor damage you might have the option of taking action later when the scene has calmed down a bit and tempers are less frayed.

Finally, if an arrest becomes necessary because of the continuing deterioration of the situation and the refusal to leave by the appropriate individuals, an arrest could possibly be made (assuming an appropriate condition for arrest can be met) for obstructing an officer in the execution of their duty, and that this could apply to any person present.