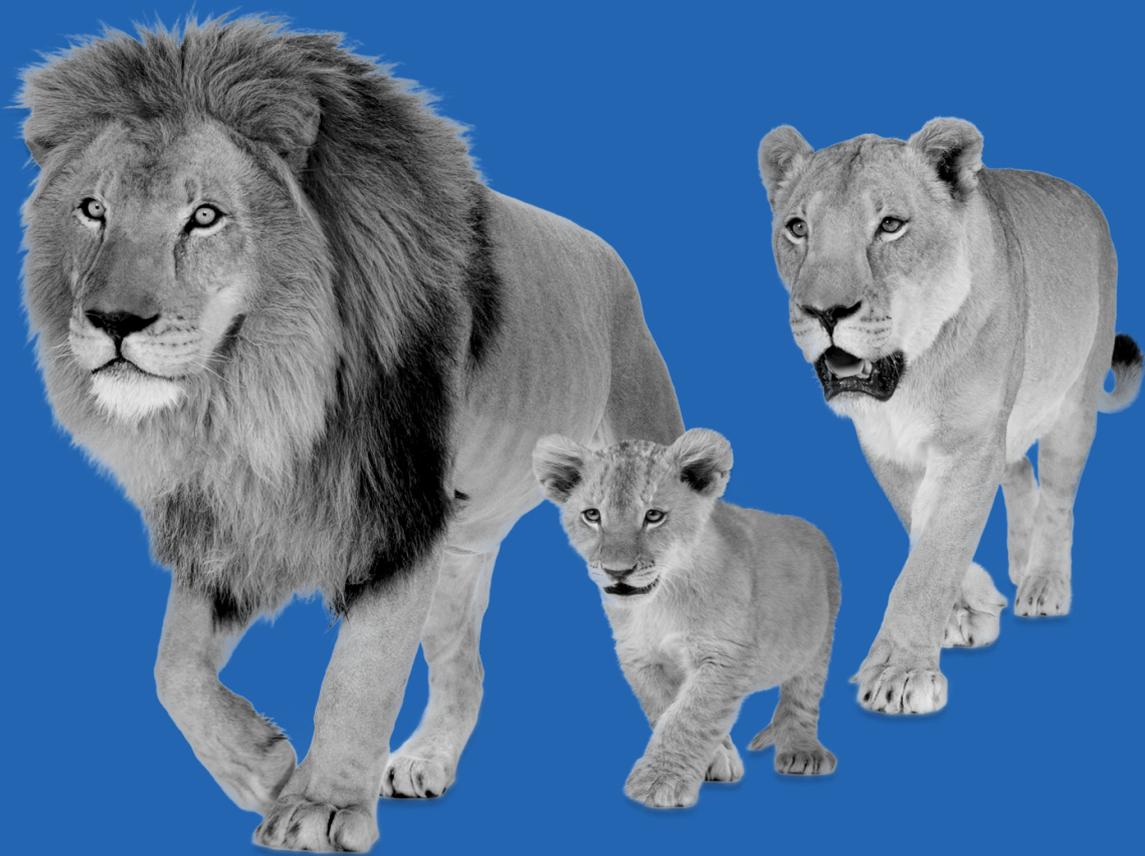


Guide to traveller removal



The Sheriffs Office[®]
We recover more for you

Version 1.2
May 2024

Disclaimer: Please note that this guide does not constitute legal advice. The author has used his best endeavours to make this guide as accurate and complete as possible, but requests that the reader be aware that the law of England and Wales frequently changes. The author strongly advises the reader to take legal advice before embarking on any enforcement action.

The Sheriffs Office

Guide to traveller removal

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1.



2. Introduction

If travellers are occupying your land without your permission and you have asked them to leave, but they refuse to do so, then you will need to take further action to have them removed.

Travellers can be removed from land either under Common Law or via a court order of possession.

When evicting under Common Law, a Certificated Enforcement Agent should be used. When enforcing a possession order, this can be done either by a County Court Bailiff (CCB) acting under a warrant of possession, or by a High Court Enforcement Officer (HCEO) under a writ of possession.

Permission is NOT required from the court to transfer up a possession order from the County Court to the High Court.

This Guide will cover eviction under Common Law and under a High Court writ of possession by an HCEO.

CCB or HCEO?

CCBs tend to work regular office hours, which limits the time available for enforcement. They have an ever-increasing workload, compounded by court cutbacks, which in some parts of the country can result in long delays before eviction can take place.

HCEOs will have enforcement agents and support teams available at very short notice for whatever time is best to undertake the eviction.

CCBs do not normally carry out a risk assessment before possession. In simpler cases, this may not be necessary, but it can be vital in more complex ones, especially higher profile cases where protests are expected. This can often result in the CCB walking away from the premises without completing the eviction.

Larger HCEOs will carry out risk assessments and health and safety planning in advance, to establish whether specialist method of entry teams and Police support might be required. This approach protects all parties to the eviction, including the client.



Questions to ask when selecting an HCEO

Before instructing an HCEO to carry out a traveller removal, we recommend that you ascertain their experience and ask the following questions:

- Do they have the appropriate insurances in place and what is the value of cover?
- Do they have a track record in this kind of work?
- Do they have enough experienced and skilled enforcement agents available to manage the eviction?
- Do they have access to specialist teams, if required?
- Do they have the resources to properly secure the property to prevent re-entry after a successful eviction?

Never carry out an eviction yourself

Never try to remove travellers by force yourself as you could be accused of a criminal act under the Protection from Eviction Act 1977.

We would recommend that you have a witness whenever you visit the premises, so you cannot be falsely accused of using threats or violence. If you do secure a peaceable re-entry, you still have a duty of care for their possessions.



3. Evicting travellers under a writ of possession

A possession order against “persons unknown” will be obtained by a landowner or landlord when they wish to remove trespassers, squatters or activists from their land.

Whilst obtaining a writ will take longer and may cost more than acting under Common Law; it does provide the landowner with more protection. Should the same travellers return, the HCEO can remove them again under a writ of restitution (a writ in support of another writ) without the need to restart the full court process.

Where to start proceedings

In the majority of cases, the claimant will be required to start the claim in the County Court. The claim can be issued in any County Court, rather than the Court in the same district as the property to be repossessed.

However, under exceptional circumstances, the claimant may be able to apply through the High Court. These circumstances include:

- Complicated disputes of fact
- Points of law of general importance
- A claim against trespassers where there is a substantial risk of public disturbance or serious harm to persons or property

Previous cases such as the removal of protestors in Parliament Square, the Dale Farm eviction and Occupy at St Paul's would most probably meet the third criterion. The value of the land is not, on its own, enough justification to start a claim in the High Court.

If a claim is wrongly started in the High Court, it may be struck out or transferred to the County Court. This will cause delays and extra costs, which will probably be unrecoverable.

Court process

There are two types of possession order against trespassers; general form of possession and interim possession proceedings.

The court process is largely the same except the interim possession order (IPO) is in two stages – an interim possession order, then a final possession order. You must apply for both and a final order for possession will normally be made at a hearing shortly after the interim possession order has been made.

You can apply for an interim possession order if the trespassers are occupying, without your consent, a building, a part of a building, or the land next to a building.



The interim possession order does not cover open land, so is unlikely to be an option for most traveller removals.

You can still apply for the possession order, even if you do not know the travellers' names – you can refer to the defendant as 'Persons unknown'. Notice of the hearing for a possession order must be served on the occupiers within 48 hours for a general form of possession.

If your claim is upheld, you will be awarded an order for possession, which instructs the occupiers to leave. They can be removed 24 hours after the final order is served.

Transfer up procedure

If the travellers do not leave of their own volition once the County Court possession order has been awarded, the order can be transferred to the High Court (using form N293A) for enforcement by an HCEO under a writ of possession. Leave from the court is NOT required to transfer to the High Court.

Your HCEO will normally manage the transfer up process on your behalf.

- You must have a final order for possession, not an interim order
- Apply for the transfer using Form N293A – most HCEOs will manage the transfer up process on your behalf for no fee
- Send payment for the [court fee](#)
- The writ of possession is then applied for by the HCEO on your behalf, using Form 66 which is sent to the High Court of District Registry for sealing

Where the possession order was awarded in the High Court, this will be enforced by an HCEO under a writ of possession without the need to transfer up. Form PF86a should be sealed in the High Court when applying for Writ No. 66.

Giving notice of eviction

There is no requirement for the HCEO to give notice of eviction. The travellers will have already been served notice of the interim or general possession order. In some cases, the element of surprise will be useful to prevent lock-ons, barricades and booby traps.

Types of writ

Writ of possession

The writ of possession is issued by the High Court after a judgment or order for possession of either property or land against "persons unknown" has been awarded and transferred to the High Court for enforcement using an HCEO.

If the judgment or order is issued in the High Court, then it must be enforced by an HCEO and may be against persons known or unknown.



Writ of restitution

The other relevant High Court writ is the writ of restitution. This is used if, after the successful eviction of trespassers from commercial property or land under a writ of possession, the same trespassers re-enter that property or land again. This writ will allow the HCEO to again enforce and remove them accordingly.

Court fee

There is a court fee to obtain a writ of possession or a writ of restitution. Please check our website for [current court fees](#) for these and other writs.

Eviction from land under a writ of possession

The HCEO will plan the eviction in advance, including a health & safety and risk assessment, meetings with the Police, where appropriate, and putting specialist method of entry teams on standby if the risk assessment indicated they might be needed (this is more common when the trespassers are activists and protesters).

Once on site, the HCEO eviction team will remove all occupants from the land, giving them reasonable time to pack all their belongings, but if anything is left behind, the HCEO will issue a torts notice concerning the disposal of abandoned goods.

Once the eviction is completed, the writ of possession will need to be signed by the landowner, their agent or their solicitor to confirm that the repossession is complete and the land has been handed back to the owner. Once the writ is signed off, the eviction team is not permitted to re-enter to remove anyone else from the property without a new writ of possession (or writ of restitution).

The landowner or their agent will probably need to have a clean-up team on hand. There is every chance there will be rubbish and detritus everywhere.

Reasons to use a writ of possession

Although landowners have the right to remove trespassers under Common Law, there are a number of reasons why you might want to consider evicting under a writ of possession:

- The writ provides landowners with greater protection than they would have under Common Law
- Notice of the date and time of eviction do not have to be given
- Whilst the Police have a duty to prevent a breach of the peace, they may be more supportive of your efforts to remove trespassers if you have a writ
- If the same trespassers return, you can remove them under a writ of restitution, without needing to restart the court process
- You can combine the writ of possession with a writ of control



If travellers return

Once travellers have been successfully removed and possession is given back to the rightful owner, we advise our clients to keep a security team in place to guard the site and prevent squatters from re-entering, be they the same people as before or a new group. This is especially important in the 48 hours immediately after eviction as this is the most common time for re-entry to be attempted.

If, for whatever reason, the same occupiers do re-enter the premises, the best method of removing them, assuming they were evicted in the first place using a writ of possession, is via a writ of restitution.

If travellers return to the site post-eviction, they cannot be removed again under the original writ of possession, as this may only be executed once.

Once the original writ of possession is signed off it cannot be re-executed, but fortunately the process of obtaining a writ of restitution is quite fast and straightforward. In effect, the writ of restitution is a writ to support another writ of execution.

Once it has been issued by the Master (the HCEO will normally take care of arranging this), then it is executed in the same way as was the original writ of possession. There is [a court fee](#) for a writ of restitution.

If the travellers are not the same people, then a new writ of possession will be required.



4. Evicting travellers under Common Law

The main advantage of evicting under Common Law is that you can act straight away and do not need to go to court. However, we do find that, on some occasions, the Police can be reluctant to support the removal if it is done under Common Law and without a court order.

Eviction under Common Law is normally undertaken by Certificated Enforcement Agents (EA), previously known as Certificated Bailiffs.

The advantages of this are that the Certificated EA will know the relevant law and procedure and will act within those laws. He will also know how to conduct a risk assessment and follow health and safety procedure before and during the eviction. Finally, he will have the necessary resources and manpower available to conduct the eviction.

Many HCEOs can act on your behalf under Common Law as all their enforcement agents must be certificated.

The process

The Certificated EA can be instructed by the landowner or their agent. They will serve eviction notices, giving a maximum timescale (often 24 hours) to vacate the site, returning when this is up to ensure the travellers have left.

If they remain, the Certificated EA can remove them and their vehicles from the site using tow trucks if necessary. You may need to have a clean-up team on stand-by to remove the detritus they leave behind.

Police support

If the Police have to be brought in to support the eviction, the Police have discretionary power under the Criminal Justice and Public Order Act 1994, which allows them to evict trespassers providing two or more people have entered the land for the purpose of residing there AND reasonable steps have been taken by the landowner to ask the trespassers to leave.

If this is the case, then one of these conditions must also be met for the Police to evict the trespassers:

- Any one of the trespassers damages the land or property on the land
- Any one of them threatens or abuses the landowner, a member of their family or one of their employees or agents of the occupier.
- There are six or more vehicles, including caravans, on the land

If it is possible that there is a risk of breach of the peace, the Police may advise the landowner to obtain a writ of possession first.



Obtaining a writ and then choosing to act under Common Law

Landowners can obtain a court order and still choose to remove the trespassers under Common Law. Halsbury's Laws of England (Paragraph 1400, Volume 45, 4th Edition) state that:

“If a trespasser peaceably enters or is on land, the person who is in or entitled to possession may request him to leave, and if he refuses to leave, remove him from the land using no more force than is reasonably necessary. This right is not ousted if the person entitled to possession has succeeded in an action at law for possession but chooses not to sue out his Writ.”

Local authorities

Government advice to Local Authorities is that they should obtain a court order to remove trespassers from land owned or managed by the local authority.

Should the trespassers on private land be obstructing a public highway, then the local authorities can act to remove them without the landowner's co-operation.



5. Health & safety when planning evictions

Health and safety planning is important when preparing for an eviction, whether for smaller or large-scale evictions, but particularly so for large evictions and where resistance is expected.

There are the key elements that go into planning the health and safety aspect of evictions by a High Court Enforcement Officer (HCEO) under a writ of possession.

Legislation

Three key and relevant pieces of legislation relating to the enforcement of a writ of possession are:

- Health and Safety at Work Act 1974 (HASAW)
- Human Rights Act 1988 (HRA)
- Courts Act 2003 – section 99 covers the right of the HCEO to request Police support and section 189 makes it an offence to obstruct an enforcement agent executing a High Court writ

The safety of the public is to be considered a paramount objective. Unlawful, reckless or careless actions may render those responsible individually liable to criminal and/or civil action. Every care must be taken to ensure that members of the public are not placed at risk of injury or damage by any action or circumstance arising from the execution of the writ of possession.

Hazards

The following issues should be considered when looking at potential hazards:

- Hazardous substances and/or processes undertaken on the site
- Biohazards and physical hazards arising from the presence of persons and animals on the site
- Electricity and gas supplies, conveyed via pipes or portable cylinders
- Chemical hazards or water contamination by hazardous substances
- Hazards arising from the physical situation of the site, or from extreme weather conditions

Resistance

There are also risks associated with resistance to the eviction. As you might expect this is a not an uncommon occurrence! These include:

- Violence, whether from physical assault, with or without the use of weapons, or missiles, not to mention verbal abuse and threats
- Physical obstructions and fortified areas – people and devices
- Physical prevention of removal by people locking themselves onto structures or to machinery



- Using structures at height to resist removal
- Using confined and fortified spaces to resist removal

These all pose potential risks to the enforcement agents, Police officers, the occupiers themselves, and to the general public. This risk is likely to be increased if they are under the influence of drugs and/or alcohol at the time of the eviction.

Human rights

The HCEO should consider, document and manage the human rights issues that are affected or are likely to be affected by the execution of the writ of possession, endeavour to negate any potential actionable causes arising from the conduct of the execution and ensure the integrity of their conduct during the execution of the writ of possession.

Key aspects to be taken into consideration include:

- The removal of the travellers' personal effects from the site and arrangements for them to be collected by their owner if necessary
- Protecting the personal property of persons not party to the writ of possession
- Safety of members of the public, the enforcement agents and persons in and around the site
- Freedom to carry out business and daily life of members of the public

Any action that the HCEO and his team undertake must be proportionate, lawful, properly authorised and necessary to the execution of the writ. Where possible, the HCEO should try to reach a negotiated agreement to leave the site first.

Training

Proper training is essential. We train our enforcement agents working on evictions to deal with everything that nature or the occupants might present them with, be it site contamination, livestock removal or vulnerable persons on site.

Operational plan

All the above points – and many more – will form part of the highly detailed operational plan, which will include some or all of the following:

- Risk assessments and site visits prior to the eviction
- Communications plan
- Operational plan and timetable
- Emergency plan
- Briefing of all persons engaged in the operation

It is a thorough, robust and comprehensive process – if you are speaking to an HCEO about an eviction, make sure they show you their planning processes and that they have fully trained EAs, appropriate insurance and everything in place to manage the eviction in a professional and appropriate manner.



6. Removal of caravans and animals

It is the landowner's responsibility to arrange the removal of animals and caravans, which does include the right to destroy the caravan and animals. Caravans and vehicles will usually be removed by tow trucks if the owners don't remove them.

If enforcing a writ of possession to remove travellers, the writ gives the High Court Enforcement Agent (HCEO) the authority to remove persons from the land, but not any animals left there; this becomes the responsibility of the landowner, although the HCEO can assist with their safe removal.

When enforcing under Common Law, the livestock and horses may be removed at the same time by the enforcement agents, although they will make every attempt to ensure that the animals are taken away by the occupants at the time of removal. This is also the case when enforcing a writ of possession.

Fly-grazing

The Control of Horses Act 2015 was brought in to make it easier and quicker to deal with fly-grazing. Under the new Act, fly-grazing horses must be reported to the police within 24 hours and owners have four days to reclaim their animal. Previously an abandoned horse could only be disposed of after 14 days through sale at market or public auction, but now it can also be sold privately or re-homed, either privately or gifted to a charity or sanctuary.

Equine and livestock removal process

The HCEO will:

- Undertake risk assessment of the operation to impound, including police liaison and support where appropriate
- Secure equine after-care site and veterinary assessment, with 24-hour emergency care
- Secure equine hand-over service
- Serve all legal notices and warnings, such as the service of abandonment notice
- Remove the equines or other livestock
- Advise the local police within 24 hours
- Ethical re-homing, sale or humane disposal

There are also rules about what an HCEO can do with the livestock. For example, they may not work them, apart from a cow that needs to be milked, nor may they put an animal for sale at a market if they are unfit or likely to give birth while there. If a foal is sold at a market, it must be kept together with its mother at all times and sold together.

Most livestock must be registered and have ear tags. Cattle and horses, in particular, must have a valid passport.



7. Police support

Depending on the case, the Police may need to attend with the enforcement team, in which case they will be involved in the pre-eviction briefings. If it is unlikely they will be required, it is good practice to alert them to the eviction and have them on stand-by just in case their support is needed on the day.

The Department for Communities and Local Government (formerly The Office of the Deputy Prime Minister or ODPM) [Guidance on Managing Unauthorised Camping](#) (February 2004) advises that the Police should always be notified of an eviction and called in to stand by to prevent a breach of the peace, and that, if the Police advise that it is inappropriate to carry out an eviction, it should always be delayed until an agreed time.

A landowner who proceeds against Police advice might lay himself or herself open to a damages claim if the eviction then resulted in assault, injury or damage to person or property.

Under s61 of the Criminal Justice and Public Order Act 1994, the Police can, at their discretion, tell trespassers to leave land as long as reasonable steps have been taken by or on behalf of the landowner to ask them to leave and there are two or more people intending to reside on the land. Any one of three further conditions must be met:

- If any of those persons has caused damage to the land or to property on the land; or
- Used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his; or
- Those persons have between them six or more vehicles, including caravans, on the land



8. Prevention of travellers

Securing land

Where you can, put fences and gates or barriers in place to prevent access. You may want to consider round the clock security, such as guards and also alarms, remote monitoring and CCTV. It is, of course, easier to secure an industrial site or a car park, than open land, but you can create natural barriers such as trees, banks of earth, logs, rocks etc.

Post-eviction security

We would recommend that you arrange your post-eviction security in advance of the eviction, so you can get gate locks changed, put up security fencing, and possibly have security measures such as guards, CCTV and alarms, ready to be implemented as soon as the travellers leave. You don't want them back!

Our services

The Sheriffs Office can arrange for whatever security measures you might require to protect the site and secure the land.



9. About The Sheriffs Office

We are a leading firm of authorised High Court Enforcement Officers (HCEO) and Certificated Enforcement Agents covering all of England and Wales.

It all started in the late 1970s as The Sheriffs Office in Northampton, dealing only with High Court writs within the county of Northamptonshire. With the Courts Act in 2003 and the High Court Enforcement Officers Regulations 2004, Sheriff Officers were renamed High Court Enforcement Officers and the restrictive geographical boundaries were dropped.

Since then The Sheriffs Office has gone from strength to strength, growing year on year to become one of the top four HCEO firms with significant market share.

Underpinning our success is our focus on client service and a comprehensive “end to end” range of specialist services for the recovery of debt, property and land.

A range of services for everyone

The Sheriffs Office provides the full range of High Court Enforcement and related services for solicitors acting on behalf of clients, as well as business of all sizes, landlords, commercial agents, local authorities, individuals and sole traders.

Money judgments

- High Court enforcement
- Employment tribunal award
- Debtor tracing
- European judgment
- Debt collection

Property and land

- Eviction
- Security
- Repossession
- Rent collection
- Equine impoundment

Awards for The Sheriffs Office

We have won and been shortlisted for numerous industry awards, including:

- Winner 2015 - Chartered Institute of Credit Management “Enforcement Team of the Year”
- Winner 2014 - CCR Credit Excellence Awards “Legal and Enforcement Profession”
- Winner 2013 – Credit Today “Enforcement Team of the Year”

We are also the HCEO firm featured in the hit BBC programme “The Sheriffs Are Coming”, which has been watched by over 30 million people and won the Broadcast Awards 2014 Best Daytime Programme.

Supporting the environment

We participate in a Carbon Offsetting project run by Carbon Footprint Ltd which is planting trees in Kenya to support local communities in the Great Rift Valley, so as to reduce poverty and provide habitats for wildlife, including lions!



10. Useful links

BT Directory Enquiries	www.bt.com
Companies House	www.companieshouse.org.uk
HCEOA	www.hceoa.org.uk
HCEO Regulations	http://www.legislation.gov.uk/ukxi/2004/400/regulation/13/made
Insolvency Service	www.insolvency.gov.uk
Instruction forms	http://thesheriffsoffice.com/instruct-us
Land Registry	www.landregistry.gov.uk/
Ministry of Justice	www.justice.gov.uk
Registry Trust	www.trustonline.org.uk
Tracing services	http://thesheriffsoffice.com/services/debtor-tracing
Further reading	www.thesheriffsoffice.com/articles/

Legislation and regulations

Part 3 of the Tribunals, Courts & Enforcement Act 2007	http://www.legislation.gov.uk/ukpga/2007/15/part/3
Taking Control of Goods Regulations 2013	http://www.legislation.gov.uk/ukxi/2013/1894/contents/made
Taking Control of Goods (Fees) Regulations 2014	http://www.legislation.gov.uk/ukxi/2014/1/contents/made
Certification of Enforcement Agents Regulations 2014	http://www.legislation.gov.uk/ukxi/2014/421/contents/made
The Civil Procedure (Amendment) Rules 2014 No 407	http://www.legislation.gov.uk/ukxi/2014/407/pdfs/ukxiem_2014_0407_en.pdf
Court fees and enforcement fees	https://www.thesheriffsoffice.com/services/court-fees-enforcement-fees



11. Glossary of terms

Certificated enforcement agents

This is an enforcement agent (formerly known as a certificated bailiff) who has been granted a certificate by a judge to levy distraint/distress. They now come under the umbrella term 'Enforcement Agent'. The certificate lasts for two years and cannot be granted to anyone employed in a business that buys debt or any officer of a County Court.

County Court Bailiffs

County Court bailiffs are civil servants employed by the court. They enforce orders for possession to evict tenants and a warrant of execution to enforce CCJs for rent arrears (and other money judgments) valued up to £5,000.

Enforcement agent

An enforcement agent (EA) is the person who will attend the debtor's premises to enforce the High Court writ. They must undergo a process of training and certification. In the case of High Court enforcement, the EA will act under the direction and authority of the authorised HCEO.

N293A

The form used to transfer up the order of possession to the High Court for enforcement by an HCEO. Permission to transfer up is not required in the case of "persons unknown".

High Court Enforcement Officer, HCEO

An enforcement agent authorised by the Lord Chancellor to enforce High Court writs. HCEOs normally operate their own private companies and are not civil servants. The writ will be issued in the HCEO's name and the enforcement of that writ remains his responsibility, although he is permitted to authorise enforcement agents to act on his behalf when enforcing a writ.

Older people and the vulnerable

Enforcement agencies must ensure that the genuinely vulnerable and socially excluded are protected. The potentially vulnerable include: elderly, people with a disability, the seriously ill, the recently bereaved, single parent families, pregnant women, unemployed people, those who have obvious difficulty with English and children. Enforcement agents must withdraw from domestic premises if the **only** person present is, or appears to be, under the age of 18 or a person who is vulnerable, although they can ask when the debtor will be home. If the child appears to be less than 12, the enforcement agent must withdraw without making any enquiries.

Persons unknown

In the case of trespassers, the owner is unlikely to know the names of all or any of the occupants, in which case he will apply for an order against "persons unknown", removing the need to know exactly who is on the premises.



Possession order

An order issued by the County Court giving the owner an immediate right to possession of the premises being occupied. This is required before a writ of possession can be obtained.

Possession – writ of

An order for possession against “persons unknown”, e.g. travellers, may be transferred to the High Court for enforcement by an HCEO under a writ of possession without the need for court approval.

Restitution – writ of

A writ of restitution is a writ to support another writ of execution. Once the writ of possession has been executed, it is completed, so a writ of restitution will be requested to enable the eviction of travellers who reoccupy the site, without the requirement to restart court proceedings.

Signing off the writ

Once the eviction is completed, the writ of possession will need to be signed by the landowner, their agent or their solicitor to confirm that the repossession is complete and the land has been handed back to the owner.

Transfer of judgment to High Court

When an order for possession against “persons unknown” is issued in the County Court, the claimant can transfer it up to the High Court for enforcement by an HCEO under a writ of possession. The transfer form is the N293A and there is a court fee. The HCEO will normally manage the transfer up process on the claimant’s behalf once instructed.

Validity of the writ

An unexecuted writ of possession is valid for a period of 12 months from the date of issue. It is deemed to be executed when all persons are removed from the land or premises and vacant possession has been given to the claimant.



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- Equine impoundment

The Sheriffs Are Coming

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Supporting the environment

We participate in a Carbon Offsetting project run by Carbon Footprint Ltd which is planting trees in Kenya to support local communities in the Great Rift Valley, so as to reduce poverty and provide habitats for wildlife, including lions!

If you would like to find out more about our services, please call us today on

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