

Lawful Execution of Court Writs and Eviction Orders

1. Purpose

This information sheet outlines the lawful procedure for the issuing and execution of writs, warrants, and eviction orders in England and Wales. It serves to assist officers in identifying unlawful enforcement actions and ensure all actions comply with Civil Procedure Rules (CPR) and statutory requirements.

2. What Makes a Writ or Eviction Order Lawful

- Be issued and sealed by a court officer of the appropriate court (CPR 83.9(2)).
- Be supported by a lawful court judgment or order, produced or referenced with the application (CPR 83.9(5)).
- State the name and judicial title of the person who made the order (CPR 40.2(1)).
- Bear the date and the official court seal (CPR 40.2(2)).
- Contain the judge's name and signature or verified electronic signature under the Electronic Communications Act 2000, Section 7.
- Be drawn up and filed by the court, not by a private company or local authority (CPR 40.3).
- Be executed only by authorised enforcement officers under Schedule 7 of the Courts Act 2003.

3. Unlawful or Defective Documents

- Are produced on internal council or enforcement agency letterheads.
- Lack a judge's name, judicial title, or court seal.
- Are unsigned or bear only a typed name with no court authorisation.
- Refer to administrative "liability orders" issued by councils rather than a court.
- Do not cite the originating case number and issuing court.
- Have not been issued through the N325 Form process.

Note: Unsigned or unsealed documents are not lawful court instruments and must not be acted upon.

4. Pre-Action Disclosure and Duty of Proof

CPR 31.16 – Request for Pre-Action Disclosure: A party seeking to rely on a writ, order, or authority must disclose all supporting documents.

CPR 31.8 – Duty of Disclosure: A party's duty is limited to documents in their control — including the original court-sealed judgment, order, and any authority to enforce. If such documents cannot be produced, the action is unlawful and should be suspended immediately pending judicial review.

5. Time Limits and Permissions

CPR 83.2(3)

A writ or warrant may not be issued without court permission when:

- More than 6 years have passed since the judgment.
- There has been a change in parties or ownership.
- The enforcement concerns assets of a deceased person.
- The applicant cannot show they have the right to execute the order.

CPR 83.3(3)

All writs and warrants are valid for 12 months only from their date of issue.

CPR 83.3(7)

Expired writs must be renewed and re-sealed by the court before further action

6. Key Judicial and Case Law

R v McCade [2008] UKHL

The House of Lords confirmed that there is no valid trial or process where the indictment or bill has not been signed by the appropriate court officer.

Electronic Communications Act 2000, Section 7

Electronic signatures must be verifiable and traceable to an authorised court officer.

7. Key Civil Procedure Rules (Summary)

Rule	Title	Core Requirement
CPR 40.2	Form of Judgments and Orders	Must name judge, be dated, and sealed by court.
CPR 40.3	Drawing up Judgments	Court must draw up the order unless directed otherwise.
CPR 83.1	Definitions	“Enforcement Officer” must be authorised under Courts Act 2003.
CPR 83.2	Permission to Issue	Certain writs/warrants require court permission.
CPR 83.3	Duration	Valid for 12 months, extendable only by court order.
CPR 83.9	Issue of Writs	Issue occurs only when sealed by a court officer.

8. Practical Guidance for Police Constables

When attending or overseeing an eviction or enforcement:

1. Ask to see:
 - The original court-sealed order or writ (not a copy or printout).
 - The judge's name and court details.
 - The authorisation of the enforcement officer (badge or certification under Courts Act 2003).
2. Do not assist if:
 - The documents are not sealed by a court.
 - The authority is issued by a council or company rather than a court.
 - The resident or occupant requests proof of lawful authority and it cannot be shown.

Assisting in an unlawful eviction may amount to misconduct or unlawful interference with property rights under the Human Rights Act 1998 (Article 8 – Right to Respect for Home).

9. References

- Civil Procedure Rules Parts 31, 40, 83
- Courts Act 2003 (Schedule 7)
- Electronic Communications Act 2000 (s.7)
- R v McCade [2008] UKHL
- King's Bench ruling, Lord Manning, 16 December 2022