

Code of Ethics For Bailiffs

Presentation For the Bailiff Workshop

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Introduction

In any given profession it is essential to develop a systematic method of working to ensure that persons of the particular profession perform their duties with integrity and the highest standards. In an endeavour to achieve the very best practice in the conduct that is expected of you as Bailiffs a Code of Ethics is necessary just as there is a Code of Ethics for Judges and Magistrates of our courts.

The legislation which governs Bailiffs is the respective Supreme Court Acts of the various islands. These Act are however quite limited in their scope and do not speak in detail to the duties of the bailiff or the manner they are expected to carry out their duties. The Act speaks of the Bailiff being under the control of the Registrar and so in many respects the Registrars have been responsible for setting out the duties of the bailiff.

Main Duty

The main duty of the Bailiff is to execute court process whether it is service of documents, conduct of judicial sales or executions of writs. While the court processes may vary, the one constant is the conduct that is expected of the Bailiff. This should not be compromised no matter what the court process.

In this presentation I shall set out some of the key aspects of conduct of a bailiff which should form the basis of a Code of Ethics for the profession.

Code of Conduct

General Conduct towards the Public

A Bailiff must;

- maintain the highest standard of business ethics and practice in order not to bring the Court office into disrepute.
- ensure that all duties are performed in compliance with all current legislation.
- carry out all duties with integrity. For example, a bailiff should not engage in discussions about a sale with a proposed purchaser prior to the sale taking place.

Comment

Any Bailiff not acting in an honest capacity may be dismissed and if considered acting in an unlawful manner may be reported to both the Police and to the Court. The Supreme Court Act makes provision for a Bailiff to be dismissed from his office by a Judge.

A Bailiff must;

- act in a manner that is objective, respectful, moderate and dignified. They must refrain from using methods and conduct likely to adversely affect the honour and the dignity of their profession.

Comment

While it is accepted that a Bailiff should use reasonable force when necessary in the execution of some of his duties, for instance the execution of writs of possession, there is no need to adopt a harsh approach from the start simply because they feel they can.

A Bailiff must;

- in carrying out their duties, refrain from acting in a manner which would embarrass, humiliate or offend any individual. For example, a bailiff should not engage in loud and crude behavior in a situation where a person who is to be served is unwilling to co-operate.
- abstain from making improper or inappropriate remarks. For example, a bailiff should not divulge to the parties to a judicial sale information which he may have heard and which is not part of the Court record.
- be properly attired while on duty. A bailiff's attire will vary depending on the nature of any given job. Therefore a bailiff will be expected to dress to suit.

Comment

For example when in Court, court room attire will be expected as opposed to the service of a writ of possession in an area with rough terrain where more casual clothing may be more appropriate. A bailiff should never wear short pants or slippers while on duty.

A Bailiff must;

- at all times carry full and proper identification and show such identification to any person who has good reason to require it.
- never intentionally mislead or attempt to mislead any member of the public during the course of his duties.

General Conduct in the Profession

A Bailiff must;

- ensure that he or she has the required knowledge to carry out their duties. If it is realized that this is lacking, the Bailiff should consult another Bailiff or a person qualified in that area prior to performing the task. To do this, bailiffs must consider carefully their proficiency as well as the available resources.
- when required, give the parties all explanations necessary so that they understand fully what the bailiff's responsibilities are.
- be reasonably available and diligent in all matters entrusted to him or her.
- refrain from performing professional activities in matters in which he or she holds an interest or in matters that concern immediate family or relatives. If a Bailiff is faced with a situation in the course of his/her duties where there would be a conflict of interest, the Bailiff must immediately notify the Registrar. While a Bailiff is not precluded from accepting private jobs, he or she however must be honest and refrain from doing such jobs during the hours of their employ by the Government.
- adopt a firm, but helpful attitude with all persons with whom the Bailiff comes into contact in the course of their duty.

- maintain the highest level of confidentiality when dealing with Court matters.

Comment

A Bailiff should never forewarn persons on matters which form part of the court record. In the case of a judicial sale, for example, a Bailiff should not divulge information to give any one person an unlawful or unfair advantage over another. It has been the case in some islands where Bailiffs have informed persons which they know of information relating to judicial sales prior to the actual sale. A bailiff also should never make copies of documents which form part of the court record for interested persons unless authorized by the Registrar or court Administrator.

A Bailiff must;

- not act as an attorney, agent or advisor to any party to any court proceedings or give advice in any legal matter.
- not to accept any gratuity for the performance of any duty in connection with his office. This is stipulated quite clearly in the Act.

This code is by no means exhaustive as there is much more which can be included. I sincerely hope however that this will be a fitting starting point from which we can develop a document which can be a guide for the profession.

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