Department for Work & Pensions   Procedures ▸ Arrestment

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Arrestment

An arrestment is a means of freezing a paying parent's bank/building society accounts or assets that are held by a third party, once a liability order (LO) has been granted.

This process will be carried out by case managers within Scottish enforcement, who will refer the case to the sheriff officers to issue the arrestment.

The Child Maintenance Group (CMG) can apply to the sheriff officers for an arrestment of several assets simultaneously under the same arrestment instruction, which can be applied against both sole and joint bank accounts. An arrestment is valid for three years from the day it is granted.

Once an arrestment has been granted the sheriff officers will send a schedule of arrestment to the third party or bank/building society and a copy to the CMG along with a certificate of execution. The third party or bank/building society is required to contact the CMG within 21 days of receipt of the schedule of arrestment, providing details of the arrested asset/s.

Once the arrested asset/s have been confirmed the paying parent will be sent a mandate to sign and return to the CMG, authorising the release of the asset. If they refuse or fail to return this mandate the asset will be automatically released to the CMG 14 weeks after the arrestment was granted.

Scottish law allows for a protected minimum sum of £415 that cannot be arrested. This protected sum is only allowed once, regardless of how many accounts or assets are subject to the arrestment.

Existing business processes should be followed if a Liability Order has previously been granted on any CSA system. For more information refer to the Enforcement/Liability Order Actions - Check CSA procedures. All Segment 5 cases with previous CSA Legal Enforcement action will automatically generate an SR which will be managed by the 1993/2003 Rules Reassessment team who will build the Liability Order. For more information refer to **Enforcement Transition Part 1** and **Enforcement Transition Part 2** from Fundamentals.

Enforcement Service Requests (SR) and Activity Plans (AP) are supported by an underlying data form, in which the enforcement case manager can record specific details as the action progresses. The complete data form for this process may be found here: Arrestment

For more information refer to the Policy, Law and Decision Making Guidance
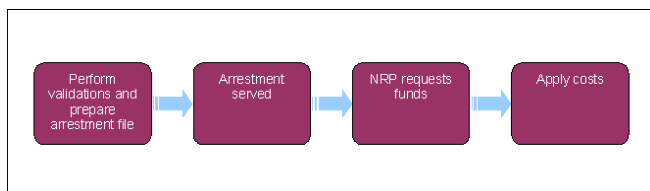
When speaking to clients always use the new terminology. For more information refer to Terminology Changes in related items.

This procedure uses the terms receiving parent and paying parent.

The receiving parent is the parent who receives or who is expected to receive child maintenance, known as the parent with care (PWC) or person with care (PeWC) on the system and in legislation. The paying parent is the parent who pays or who is expected to pay child maintenance, known as the non resident parent (NRP) on the system and in legislation.

Perform validations

Some actions may require an up front payment to the service provider (e.g. Courts). This payment will be made using the government procurement card (GPC), for more information refer to Admin Account - Add To.

Due to the nature of arrestment action the paying parent will not be contacted prior to the application to the sheriff court, as this would increase the risk of the paying parent moving or disposing of their assets.

1. Open a new service request (SR) using the following options:

   - **Process = Enforcement**

   - **Area = Take Enforcement Action**

   - **Sub Area = Arrestment**

2. Confirm that the paying parent falls into the correct jurisdiction for this action (i.e. that they are habitually resident in Scotland). Update the SR **Status** to **In Progress**. If you cannot confirm jurisdiction add an explanatory text and select **Exit**. Go to **step 20** to manually close the SR. For more information refer to the Policy, Law and Decision Making Guidance.

The decision to apply for an arrestment is a discretionary decision and must be recorded as a **freetext** entry in **Update Child Welfare Details – Reason.**

3. The system will present an activity plan of standard validations which may be completed in any order:

   - **Verify arrears outstanding**: Check arrears

   - **Consider welfare of child/ren**: This is a discretionary decision, this includes making a Welfare of the Child Decision, for more information on discretionary decisions including a verbatim statement to record in **Notes** refer to Policy, Law and Decision Making Guidance

   - **Letter outbound**: Call the Receiving Parent to explain the action you are planning to take and send letter CMEL9280 (this is an off system letter) to advise them of the Child Maintenance Group's (CMG's) intention to apply for an arrestment

     To allow you to proceed with the SR, Select letter CMSL9271 (a wholly clerical letter proforma) populate the letter with "Blank letter generated to work around enforcement validation" and Xerox will ensure that the letter is not sent. Please refer to the procedure for Letters outbound - contingency summary for further details

     When speaking with the receiving parent regarding the intention to apply for an arrestment, stress to them the importance of not letting the paying parent know about the proposed action. Making mention of it on social networking sites or to mutual friends will greatly increase the risk of the paying parent becoming aware of the action and disposing of any assets.

   - **Add/validate LO**: Select the relevant liability order (LO) and associate it with this activity plan

   - **Add/validate asset**: Select the required paying parent assets from the **Contact Asset** view and associate them with this activity plan.

   - **Decide next steps**: Select **Continue**, or **Exit** If you are unable to confirm any of these validations

   Use the **Asset** view to record assets on the system. Use the **Contact Asset** view to associate an asset to your enforcement SR. When recording assets, only use the data fields under the applet name. Don't use the menu next to **Asset Type**.

   Go to **step 19** to manually close the SR if you decide to exit from this activity plan. If you select Continue the system will automatically present the next activity plan to prepare the arrestment file.

Prepare Arrestment File

4. Select the template for form CMEL7100 and send this along with a copy of the liability order (LO) extract decree, or a certified true copy of the LO to the solicitors who will instruct the sheriff officers to serve the Arrestment. Set a **Wait** period of 28 days for a response to be received. FDesior further information on issuing this letter refer to Letters (Outbound) - Third Parties/Forward.

5. Call the sheriff officers if no response is received after the wait period. Set a further **Wait** period if required.

6. Update the SR with the outcome when received. If the Arrestment was successful, proceed to **Step 9**

7. Close the SR manually if the arrestment was not successful. Go to **Step 20** to apply costs and to send the appropriate letter to the receiving parent, advising them that we cannot proceed with the Arrestment.

Arrestment Served

8. Set a **Wait** period of 21 days to allow a response to been received from the third party bank/building society.

9. When a response is received, update the activity plan to record whether funds were available.

   The arrestment may be served but if funds are not available or fall below the protected minimum of £415.00 the arrestment action will be ended. Manually close the SR if this is the case and send letter CMEL7110 to the receiving parent, advising them that we cannot proceed with the arrestment. Go to **step 19** to manually close the SR.

10. Send letter CMEL7108 to the receiving parent once the third party or bank/building society has confirmed that the arrested asset is frozen. This is an ad hoc letter which advises the receiving parent that we have instructed sheriff officers to carry out an arrestment and the arrestment has been successful.

    To record this letter, create an ad hoc line in the activity plan to record these.

11. Send letter CMEL7101(for a bank/building society arrestment), along with FT9300, ensure that this form is amended to suit the case , or CMEL9275 (for a third party arrestment) to the paying parent once the third party or bank/building society has confirmed that the arrested asset is frozen. Set a **Wait** period of seven days for a response to be received. If the paying parent returns the completed mandate, go to **step 13**. If they fail to return the mandate, continue to **step 14**.

12. Send letter CMEL7113 to the third party or CMEL7102 to the bank/building society, enclosing the signed paying parent mandate and set a **Wait** period for the arrested funds to be received. Update the activity plan to reflect your actions. Once the arrested funds are received go to **step 18** to complete this process.

13. If the paying parent fails to return the mandate you have the option of either waiting 14 weeks for the arrested asset to be released by the third party or bank / building society, or to apply for a writ of furthcoming if there is justification to secure the asset sooner. For more information refer to Action Of Furthcoming, and update the activity plan. Set a **Wait** period of 14 weeks if you do not wish to take an action of furthcoming. Once the asset is received go to **step 19** to complete this process.

This SR will remain open until the arrested funds are received after the 14 weeks wait period.

Paying parent requests funds

14. A paying parent may request that some or all of the funds are released from an arrested account if they feel they will suffer hardship, or because the arrested account is in a joint name. Consider the paying parent's request, referring to the decision making guide.

15. If you agree to release some or all of the funds select from the following list of appropriate letter templates to send to the paying parent and bank, building society or third party.

   - CMEL7103
   - CMEL7105
   - CMEL7106
   - CMEL7107
   - CMEL7114
   - CMEL9010

16. If you disagree with the request for funds, update the **Notes** field with your reason and go to **step 20** to apply costs and complete the process.

17. Manually close the SR if you decide the arrestment is no longer applicable. Go to **Step 20** to apply costs and to send the appropriate letter to the receiving parent, advising them that we cannot proceed with the arrestment.

18. Call the receiving parent and send letter CMEL7109 to advise when the arrested funds are received and go to **step 20** to apply costs.

Apply Costs

19. This step is optional, depending on whether costs have been granted against the paying parent in this procedure. For more information refer to Apply Costs. The Sheriff Officers will return a breakdown of costs with their report. refer to the Law, Policy and Desion Making Guidance for advice on which costs are billed to the paying parent and which are covered by CMG

20. Access the Costs applet and input any costs associated with the arrestment

21. The receiving parent update letter is issued at this point. Select from the following outcomes:

   - CMEL7109 - Arrestment successful
   - CMEL7110 - Arrestment unsuccessful

22. To complete the process manually close the work item by updating the SR as follows:

   - **Status = Closed**
   - **Sub Status = Completed**

CMEL7100 Please enforce the enclosed liability Order

Covering letter to sheriff officer – please enforce LO with arrestment of funds

Under the sub heading 'Please enforce the enclosed liability order' enter the arrestee's name in the Arrestee name free texts field.

Under the sub heading 'What you need to do now' enter the arrestee's name in the Arrestee name free text field and the address in the Address free text fields.

CMEL7101 We are taking the child maintenance you owe

Covering letter for statutory mandate

Under the sub heading 'We are taking the child maintenance that you owe' enter the arrestee name in the arrestee name free text fields and the arrestee reference number in the Arrestee reference number free text fields.

Under the sub heading 'What you need to do now' enter the Arrestee name in the free text field.

CMEL7102 Please make an arrestment for child maintenance arrears

Covering letter to deposit taker for signed statutory mandate (to bank / deposit taker)

Under the sub heading 'Please make an arrestment for child maintenance arrears' enter the arrestee reference number in the free text field.

CMEL7103 Please adjust an arrestment for child maintenance arrears

Instruction to adjust arrestment with or without statutory mandate (to deposit taker)

Under the sub heading 'Please adjust an arrestment for child maintenance procedures arrears' enter the arrestee reference number in the Arrestee reference number free text field and select one of the following:

- If there is a mandate, use paragraph **TM_15476_E** 'With mandate'

- If there is no mandate, use the paragraph **TM_15477_E** 'Without mandate'

CMEL7105 We have adjusted the amount on an arrestment

We have adjusted the amount of the arrestment

Under the sub heading 'We have adjusted the amount on an arrestment' enter the arrestee name in the Arrestee name free text fields, the arrestee reference number in the Arrestee reference number free text field and select one of the following:

- If the paying parent applied for an order restricting or recalling the arrestment and the outcome is restriction, use paragraph 'If paying parent applied for an order restricting or recalling the Arrestment and outcome is restriction'

- If the paying parent successfully applied to the sheriff for an order releasing all or some of the money arrested and the outcome was some released, use paragraph 'If paying parent successfully applied to the sheriff for an order releasing all or some of the money arrested and outcome was some released'

- If the paying parent made a payment, use paragraph 'If paying parent made a payment'

- If we have decided to change the amount, use paragraph 'If we have decided to change the amount'

Under the sub heading 'What you need to do now' select one of the following:

- If we previously issued the mandate and are now re-issuing, use paragraph 'If we previously issued the mandate and are now re-issuing'

- If we have not yet issued the mandate, use paragraph 'If we have not yet issued the mandate'

CMEL7106 We have removed an arrestment

We have removed an arrestment

Under the sub heading 'We have removed the arrestment on your account' enter the arrestee name in the Arrestee name free text fields, the arrestee reference number in the Arrestee reference number free text field and select one of the following:

- If the paying parent paid the full amount on this arrestment, use paragraph: **TM_14016_E** -'If paying parent paid the full amount on this arrestment'.

- If the paying parent appealed, use paragraph: **TM_14017_E** -'If paying parent appealed'.

- If the paying parent applied to the sheriff for arrestment to be recalled or restricted and the outcome was recall, use paragraph: **TM_10418_E** -'If paying parent applied to sheriff for arrestment to be recalled or restricted and outcome was recall'.

- If the paying parent applied to the sheriff for the funds to be released and all funds were released, use paragraph: **TM_10419_E** -'If paying parent applied to the sheriff for the funds to be released and all funds released'.

- If the arrestment has been recalled on an execution technicality but the arrears remain due and collectable under this LO, use paragraph If the arrestment has been recalled on an execution technicality but the arrears remain due and collectable under this LO and enter the details in the free text field.

Under the sub heading 'What happens next' select one of the following:

- If the paying parent still has these arrears, use paragraph: **TM_10420_E** -'If paying parent still has these arrears'.

- If the paying parent no longer has any arrears, use paragraph: **TM_10421_E** -'If paying parent no longer has any arrears'.

- If the paying parent still has some of these arrears, use paragraph: **TM_10422_E** -'If paying parent still has some of these arrears'.

- If the paying parent no longer has any arrears but does have regular maintenance, use paragraph: **TM_10423_E** -'If paying parent no longer has any arrears but does have regular maintenance'.

- If the paying parent no longer has these arrears but does have other arrears, use paragraph: **TM_10424_E** -'If paying parent no longer has these arrears but does have other arrears'.

- If paying parent no longer has these arrears but does have ongoing maintenance and other arrears, use paragraph: **TM_10425_E** -'If paying parent no longer has these arrears but does have ongoing maintenance and other arrears'.

CMEL7107 Please remove an arrestment for child maintenance arrears

Arrestment removed/release funds back to paying parent.

Under the sub heading 'Please remove an arrestment for child maintenance arrears' enter the arrestee reference number in the Arrestee reference number free text field.

CMEL7108 Your child maintenance update – arrestment granted

Tell receiving parent that we've been granted an arrestment.

All fields in this letter are system generated, no manual intervention is required.

CMEL7109 Your child maintenance update – arrestment successful

Tell receiving parent that we have had an arrestment granted.

Under the sub heading 'What this means for you' select one of the following:

- If all arrears are cleared and there is no ongoing maintenance, use paragraph: **TM_09595_E** -'If all arrears cleared and no ongoing maintenance' and enter what will happen now in the free text field.
- If all arrears are cleared but ongoing maintenance remains, use paragraph: **TM_09596_E** -'If all arrears cleared but ongoing maintenance remains'.
- If all arrears under this LO are cleared but other arrears remain, use paragraph: **TM_09597_E** -'If all arrears under this LO are cleared but other arrears remain'.
- If the arrears under this LO are cleared but other arrears and ongoing maintenance remain, use paragraph: **TM_09598_E** -'If the arrears under this LO are cleared but other arrears and ongoing maintenance remain'.
- If some arrears remain under this liability order and some or all of the payment is allocated to receiving parent, use paragraph: **TM_09599_E** -'If some arrears remain under this liability order and some or all of the payment is allocated to receiving parent'.
- If some arrears remain under this liability order but none of the payment is allocated to receiving parent, use paragraph: **TM_09600_E** -'If some arrears remain under this liability order but none of the payment is allocated to receiving parent'.

CMEL7110 Your child maintenance update – arrestment unsuccessful

Tell receiving parent that arrestment wasn't successful.

All fields in this letter are system generated, no manual intervention is required.

CMEL7113 Please make an arrestment for child maintenance arrears

Covering letter for signed statutory mandate (third party);

Under the sub heading 'Please make an arrestment for child maintenance arrears' enter the arrestee reference number in the free text field and select one of the following:

- If the release is funds, use paragraph 'If funds'
- If the release is an asset, use paragraph 'If asset'

Under the sub heading 'How to pay' select one of the following:

- If the release is funds, use paragraph 'If funds'
- If the release is an asset, use paragraph 'If asset'

CMEL7114 Please remove an arrestment for child maintenance arrears

Arrestment removed/release funds back to paying parent (third party).

Under the sub heading 'Please remove an arrestment for child maintenance arrears' enter the arrestee reference number in the free text field.

CMEL8085 Instruction to serve a charge for payment

Request to enforce liability order.

Under the sub heading 'Please serve a charge for payment' enter the court name in the free text field.

CMEL9010 Please make a change to an arrestment

To ask bank to release arrested funds back to paying parent.

Under the sub heading 'Please make a change to arrestment number' enter the arrestee reference number in the Arrestee reference number free text fields.

Enter the name of the Sheriff Court in the name of Sheriff Court free text field.

CMEL9275: To paying parent, Statutory mandate to be signed and returned (third party)

CMEL7100: Asks if Arrestment action has been successful

CMEL7101: To paying parent, Statutory mandate to be signed and returned

CMEL7102: To third party, Arrestment on account to release funds

CMEL7103: To bank, requesting release of funds to paying parent

CMEL7105: Tells paying parent we have released funds from arrestment, leaving X amount (bank)

CMEL7106: Tells paying parent we have released all funds from arrestment (bank)

CMEL7107: To third party, requesting release of funds to the paying parent

CMEL7108: Send Case to sheriff officer and notify paying parent and receiving parent

CMEL7109: No details available for this letter

CMEL7110: Advises receiving parent that we cannot continue with Arrestment action

CMEL7113: To third party, enclosing signed mandate

CMEL7114: To third party, requests release of funds to paying parent

CMEL7115: Tells paying parent we have released funds from arrestment, leaving X amount (Third party)

CMEL7116: Tells paying parent we have released all funds from arrestment (Third party)

CMEL9010: To bank, requesting release of funds to paying parent

CMEL9259: Request to enforce Liability Order

CMEL9274: To paying parent, Statutory mandate to be signed and returned (bank or building society)

CMEL9275: To paying parent, Statutory mandate to be signed and returned (third party)

CMEL9280 Advise the receiving parent of CMG's intention to apply for an arrestment

Off system letter

Action Of Furthcoming

Admin Account - Add To

Apply Costs

Terminology Changes

Who will serve/issue the notice of action of reduction on the NRP?

Sheriff Officers will action these.