



Exceptional Attachment

An exceptional attachment order is granted by the sheriff and it allows a sheriff officer to enter a paying parent domicile or dwelling house to seize assets that are not essential to their life. Assets seized by the sheriff officer will be auctioned to recover outstanding debt.

This action is allowed only after a liability order (LO) has been granted and a charge for payment and debt advice information pack (DAIP) have been issued to the paying parent.

The sheriff court must be satisfied that the application for an exceptional attachment is justified before it is granted.

The sheriff officer must be satisfied that the goods seized will cover the cost of any chargeable expenses, and realise at least £300 at auction. Goods seized must not be subject to a hire purchase agreement but may be owned wholly by the paying parent, or jointly with a third party.

If no goods are seized, or full payment is not recovered the sheriff officer will send a report and return the liability order and charge for payment.

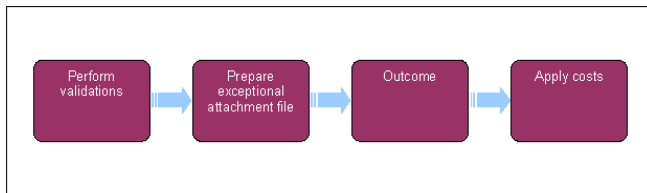
The sheriff officer will complete a schedule of the goods that have been exceptionally attached, and will give a copy to the debtor. The paying parent may redeem the article/s by paying the value of the attached goods within seven days of the article/s being attached. After this time the sheriff officers will contact the case manager for authorisation to proceed to auction the seized asset/s.

 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: [Exceptional attachment](#)

This process will be carried out by case managers within Scottish enforcement.

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](#).

 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



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

1. Create a new work item
 - **Process = Enforcement**
 - **Area = Take Enforcement Action**
 - **Sub Area = Exceptional Attachment**
2. Confirm that the paying parent falls into the correct jurisdiction for this action and update the service request (SR) **Status to In Progress**.
3. The system will present an activity plan of standard validations which may be completed in any order. Select **Exit** if you are unable to confirm any of these validations.
 - Verify arrears outstanding: Check the exact amount of arrears outstanding. Select **Go To Contact** button, navigate to the **Financial Accounts** screen, drill down on the account number and view the **Payment Schedule** tab. Check the value in the **Total Arrears Balance** field.


- Consider welfare of child/ren: For more information refer to discretionary decision making in the Law and Policy Handbook 
-  Letter - Outbound: Issue letter CMEL9018 to advise the receiving parent of the Child Maintenance Group's intention to apply for an exceptional attachment.
- 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 select **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.

4. 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 attachment file.



The decision to apply for an exceptional attachment is a discretionary decision and must be recorded as a **Notes** entry in **Update Child Welfare Details - Reason**. For more information on discretionary decisions refer to the Policy, Law and Decision Making Guidance. 

Prepare exceptional attachment file

5.  Select the template form CMEL9247 (Scottish courts Form 22) and letter CMEL9246, send these to the CMG's contracted solicitor along with a copy of the liability order (LO) extract decree or a certified true copy of the LO.
6. Record the date you send CMEL9247 and CMEL9246 on the data form and set a **Wait** period of 28 days for a response to be received.
7.  Call the contracted solicitor for an update if no response is received after the wait period, and set a further **Wait** period if required. Once a response is received, update the activity plan.
8.  If the exceptional attachment was not granted, complete letter template CMEL9015, advising the receiving parent that we cannot proceed with the action and go to **step 19**. If exceptional attachment is executed, go to **step 9**.



When speaking to the receiving parent at this stage, consider that they may be frustrated that this action has failed. Explain to them the further powers that the CMG can use to recover the paying parent debt.

Outcome

Paying parent makes full payment

9. Select **No Further Action** from the activity plan if the sheriff officer reports that the paying parent has made full payment to redeem the asset. The paying parent is allowed seven days from the date of the exceptional attachment being executed to redeem the articles attached. Record any **Notes** and, to complete this procedure, go to **step 19**.



Paying parent disposes of asset

10. Select **NRP Breaches Attached Assets** from the activity plan if the paying parent disposes of the asset before it can be seized by the sheriff officers. Record any **Notes** and, to complete this procedure, go to **step 19**.

Paying parent requests release of asset

11. The sheriff officers will contact the CMG if the paying parent makes a request for an asset to be released. The paying parent may, within seven days of the attachment, make an application to the sheriff for an order which provides for the attachment to cease to have effect and for the articles to be returned to the domicile where they were attached.
12. Select **NRP Appln For Release** from the **Ex Attachment Granted** activity plan if you subsequently agree to release the requested asset. The CMS system will then generate a further activity plan for **NRP Appln For Release**.
13. When updating the activity plan, select **No Additional Activities** in the **Additional Activities Required** field to complete the action, and go to **step 19** to **Apply Costs** and close the SR.

Auction action

14.  The sheriff officer will contact you to confirm that you wish for the attached assets to be auctioned. Issue letter CMEL9091 to the sheriff officers if you agree that the action should proceed. Set a **Wait** period of 28 days for an update of the outcome. When the proceeds of the auction are received they will show as a receipt in the paying parent's payments from account, and will pay out to the receiving parent/s in the normal manner.
15.  Call the sheriff officer for an update if no response is received after the wait period, and set a further **Wait** period if required. Once a response is received, update the activity plan.
16. If the asset/s fail to sell at auction the CMG will retain the paying parent's goods and reduce their arrears by the net value of the asset/s. This is the open market value as determined by the sheriff officers, less the amounts due for diligence fees (charge for payment and attachment

fees) and judicial expenses (liability order expenses awarded by sheriff court etc). Before taking any action on the arrears, contact the policy team to discuss the appropriate action. If you're advised not to reduce the arrears, go to **step 19**.

17. Reduce the arrears once you've discussed the case with the policy team. Select **Initiate Offsetting WI** in the activity plan **Attached Asset Not Sold**. The following SR will be generated:

- **Process = Payment**
- **Area = Admin**
- **Sub Area = Drawdown**

18. Complete the **Drawdown** SR and make payment to the receiving parent or Secretary of State (SofS) equivalent to the determined value.

Apply costs

19. Access the **Costs** applet and input any costs associated with the attachment.



Zero costs will need to be entered. For more information refer to **Apply Costs**.



If you encounter an error and cannot close the **Exceptional Attachment SR** when an exceptional attachment is not granted you need to raise an SR to amend the action. For more information go to **step 25** of the **Case Routing - Enforcement** procedure. Use **Other Ongoing Enf Actions** as the **Reason** code.

20.  Issue letter CMEL9015 to the receiving parent (Inform receiving parent of outcome – action successful) and update the activity plan. If the auction has been successful then the costs will be met from the proceeds of the sale. If the auction has not been possible then the costs must be met by the CMG.

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

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

CMEL9015 Your child maintenance update – attachment and auction

Inform receiving parent of outcome of attachment and auction.

Under the sub heading `Your child maintenance update select one of the following:

- If paying parent has paid in full, use paragraph `If paying parent has paid in full`
- If paying parent has made part payment, use paragraph `paying parent has made a part payment`
- If paying parent has made a payment agreement, use paragraph `If paying parent has made a payment agreement`
- If there are no suitable assets to attach, use paragraph `If there were no suitable assets to attach`
- If the sheriff officer successfully attached assets and the money covers part of the debt under these orders, use paragraph `If the sheriff officer successfully attached assets and the money covers part of the debt under these orders`
- If the sheriff officer successfully attached assets and the money covers the full debt under these orders, use paragraph `If the sheriff officer successfully attached assets and the money covers the full debt under these orders`
- If the sheriff officer attached assets but couldn't sell them at auction, use paragraph `the sheriff officer attached assets but couldn't sell them at auction`
- If attachment isn't appropriate in this case any more, use paragraph `If attachment isn't appropriate for this case any more` and add any free text notes required

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

- If all arrears are cleared and no ongoing maintenance, use paragraph `If all arrears cleared and no ongoing maintenance` explain what will happen now in the free text field
- If all arrears are cleared but ongoing maintenance remains, use paragraph `If all arrears cleared but ongoing maintenance remains`
- If all arrears under this LO are cleared but other arrears remain, use paragraph `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 `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 this receiving parent, use paragraph `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 this receiving parent, use paragraph `If some arrears remain under this liability order but none of the payment is allocated to receiving parent`
- If we receive a part payment and are continuing with this action, use paragraph `If we received a part payment and are continuing with this action`
- If there were no suitable assets to attach, use paragraph `If there were no suitable assets to attach`
- If the sheriff officer attached assets but couldn't sell them at auction, use paragraph `If the sheriff officer attached assets but couldn't sell them at auction`

- If attachment isn't appropriate for this case any more, or any other variant of options above, use paragraph 'If attachment isn't appropriate for this case any more or any other variant of options above' and explain what will happen next in the free text field

CMEL9018 Your child maintenance update – attachment and auction

Tell the receiving parent that we're taking attachment and auction action.

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

CMEL9091 Request Sheriff Officers to execute an auction

This letter initiates auction action.

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

CMEL9246 Application for exceptional attachment

(Off system letter)

Part of the Io application file.

CMEL9247 Please apply to the sheriff court an exceptional attachment

(Scottish courts Form 22)

Instruct solicitor to apply to the sheriff court for an exceptional attachment.

Under the sub heading 'Please apply to the sheriff court for an attachment or exceptional attachment' complete the free text fields, select one of the following paragraphs and complete the free text fields within:

- If an arrest warrant was executed, use paragraph 'IF an arrestment was executed THEN'
- If an inhibition was registered, use paragraph 'IF an inhibition was registered THEN'
- If an attachment was completed, use paragraph 'IF an attachment was completed THEN'
- If DEO is not appropriate, use paragraph 'If DEO is not appropriate'
- If DEO is in place, use paragraph 'If DEO is in place'

[Admin Account - Add To](#)

[Apply Costs](#)

[Attachment](#)

[Charge For Payment](#)

[Terminology Changes](#)

What will happen if the article/s are not sold at auction?

The CMG will retain the NRP's goods and reduce their arrears by the open market value net value of the asset/s, less the amounts due for diligence fees and judicial expenses.