



## Liability Order - Magistrates Court

A liability order (LO) is a legal recognition, by a magistrates' court, that a debt is owed. In England, Wales and Northern Ireland an application is made in a magistrates' court by a Child Maintenance Group (CMG) court presenting officer (CPO). The purpose of this procedure is for the Enforcement Case Manager (ECM) to prepare an LO application to forward to a CPO. It also covers recording the outcome of a LO hearing and applying costs to the case.

A be applied for when paying parent's debt has exceeded £500, and is subject to an enforcement charge of £300.00. When speaking to the paying parent prior to any enforcement action advise them that they will be liable to pay the charge as well as any other additional enforcement costs. For more information refer to [Civil Enforcement Overview](#).

A case must be with enforcement before an application can be made to a magistrates' court for an LO. There is no requirement for an LO application to be authorised.

An LO does not compel a paying parent to pay, it enables recovery of the debt through civil actions. These include:

- Levying distress via bailiffs
- Registration with register of judgments orders and fines
- Transfer to county court, and subsequently charging orders, orders for sale, third party debt orders
- Committal to prison/removal of driving licence
- Actions by the enforcement of judgments office (EJO) in Northern Ireland

A paying parent has the right to appear at the hearing but is not obliged to. A paying parent may make representation to the court only on the grounds that they are not the liable person or that the debt has been paid.

It is a legal requirement that a paying parent receives a letter warning of the intention to apply for an LO and is given a chance to pay in full or make a suitable repayment offer. If the paying parent pays in full, an LO application will not be made. If the paying parent makes an acceptable offer to pay, the CMG will apply for an LO to secure the debt but will not enforce it while the paying parent remains compliant.

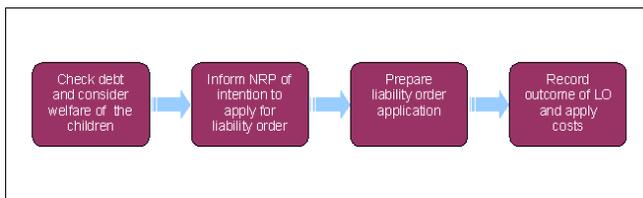
A top-up LO is used to secure further debt relating to a period for which an LO already exists, e.g. as a result of a backdated increase in a paying parent's liability. A top-up LO application follows exactly the same process as a normal LO but is recorded on the 2012 System and on the court documents as a top-up.

A top up LO is not subject to a further enforcement charge, however the 2012 System will currently prompt the ECM to apply a further £300.00 charge for a top up LO. This charge will subsequently need to be removed. For further information refer to [Civil Enforcement Overview](#).

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](#). All Segment 5 cases with previous CSA Legal Enforcement action automatically generate an SR which are managed by the 1993/2003 Rules Reassessment team who will build the Liability Order. For more information refer to [Enforcement Transition 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. For more information refer to: [LO - Magistrates court](#)

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

 If Enforcement Case Managers (ECMs) are unable to draft stamp the full amount of arrears due, as a result of suspended collection charges over £65 as a consequence of write-off action being taken, raise an incident with AAC. Design will review the incident and work with affected areas to decide the best way to proceed with case.

 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](#).

1. Confirm that the paying parent falls into the correct jurisdiction by checking their address in the Contacts screen. If jurisdiction changes while enforcement action is ongoing set the Lock Assignment Flag.
2. Create a new service request (SR) with:
  - **Process = Enforcement**
  - **Area = Take Enforcement Action**
  - **Sub Area = LO Magistrates Court**
3. Add the case number to the **Case #** field and go to the **Related SR** tab to associate this SR with the relevant **Review Case and Decide Next Action** SR.
4. Use the [Government Office Region tool](#) (GOR) to identify the correct centralised court. Add the court to the **Third party Account** field.
5. Update the **Status to In Progress**. An activity plan will generate.
6. Perform the validations listed in the activity plan:

 The activities may be performed in any order but review if an application is appropriate before issuing a letter to the receiving parent to inform them of the LO.

 Where an error message is received which states 'Suspended line items are present in the given date range' unsuspend the debt on the case or adjust the date range of date stamping. For more information refer to [Suspend/Unsuspend Liabilities](#)

 Where there are residual arrears follow [LO-stamping-CSA-scheme-arrears](#).

 Check whether there are existing LOs - Navigate to the **Financial Accounts** screen and the **Enforce Enquiries** tab.

- **Draft stamp the LO** - Overtyping the system populated dates in the **To Date** and **From Date** fields. For more information refer to [LO/LSDO - Stamping](#). Once you've decided the period of debt appropriate for which to impose the LO, navigate back to the SR activity plan. If there is no enforceable debt, then exit the process at the **Decide Next Steps** activity.

 The paying parent's arrears must exceed £500 to be considered for LO action.

 Define the end date of the debt period to cover arrears only. Look at the Schedule tab and clarify when the last posting was made to arrears, choose the date that the liability was actually posted (OGM-which is now arrears) rather than the date it was posted as arrears. A missed payment is only considered as arrears at the end of the payment frequency. E.g. paying parent payment frequency is weekly so liability posted on 20/7/2012 will not turn into arrears until the end of 27/7/2012.

- **Verify arrears outstanding** - Record the **From** and **To** date and **amount** of the Draft Stamp period in the **Reason** field.
- **Consider the welfare of child/ren** - The decision to apply for an LO is a discretionary decision, this includes making a Welfare of the Child Decision. An LO is not in itself a sanction against the paying parent. For more information on discretionary decisions including a verbatim statement to record in **Reason** refer to Policy, Law and Decision Making Guidance . If there is any evidence that the application for a LO might compromise the welfare of the child/ren then exit the process at the **Decide Next Steps** activity.

-   If the application is appropriate, issue CMEL7006 to advise the receiving parent of the CMG's intention to apply for an LO. Call the receiving parent to explain the action being taken, explaining clearly and realistically how long legal action could take.

 When issuing letters on transitioned cases for 2012 Scheme debt only use the clerical letter template, selecting the drop down "Arrears not due from previous scheme".

- **Decide next steps** - Select Continue to proceed with the application for an LO and generate the next part of the activity plan Prepare Mag File or, if any of these validations have shown you that it would be inappropriate to proceed with an LO, record your decision in the Reason field of the Update Child Welfare Details activity. Select Exit, and close the SR by updating the **Status** to Closed and **Sub Status** to **Complete**.
7. After confirming the arrears are still payable, update the activity plan line **Caseworker applies new charge, if a charge is effective**. Select the **Outcome of Charge Applied** as a charge is always applicable for a liability order, but should not be applied for a top up LO. For more information refer to [Enforcement Charge - Apply](#).
  8.  Issue letter to the paying parent to advise of the Child Maintenance Group's (CMG) intention to apply for a liability order (LO). In addition to the letter, consider issuing an SMS to advise the paying parent of intention to apply for a LO. For more information refer to [SMS Text](#).

- CMEL7000 (a & b) general LO warning

When completing the CMEL7000, the amount to be entered into the field "**Amount applied for on the Liability Order**" is the total amount of OGM plus 2012 collection charges due in the LO period and **does not** include any 2012 enforcement charges.

The total enforcement charges due for a non transitional Liability Order will be the LSDO, RDO or DEO charges applied to the case.

The total enforcement charges due figure must be entered into the specific field in paragraph 4 under heading "**Enforcement Charges**".



A LO Calculator tool is available from [Calculation Tools](#). The LO Calculator calculates amounts required for input onto CMEL7000 for the LO period set.

- CMEL7400 - Applying for additional liability order - arrears increased
- CMEL7401 To tell client that since we have recalculated their maintenance their arrears have decreased



When issuing letters on transitioned cases for 2012 Scheme debt only use the clerical letter template, selecting the drop down "Arrears not due from previous scheme"

9. Update **Sub Status** to **LO application warning letter** and set a Wait period of seven days (or 28 days if you are aware the paying parent is out of the country). If the paying parent fails to respond go to **Step 11**.

## Withdraw LO action

10. If the paying parent responds and pays their arrears in full, or to withdraw the LO for any other reason, navigate to the **Enforce form/document** and update the **Outcome of LO** field to **Withdrawn**, and complete the **Withdrawn Reason** field by selecting an appropriate reason from the pick list. Where the paying parent pays their arrears update **Resolution Code** to **LO withdrawn - PP Paid**. Unstamp the LO before closing the SR **Status** to **Closed** and the **Sub Status** to **Complete**.



If the paying parent pays their arrears in full or contacts the CMG to make an acceptable arrears agreement within the seven days after CMEL7000 was issued the £300 enforcement charge is no longer applicable. For more information refer to [Enforcement Charge - Reversal](#).



To withdraw the LO after it has been referred to the Court Presentation Officer (CPO) refer to the **adjournment or withdrawal** section of the [Court presentation - Magistrates Court](#) procedure. This action however must be completed by the Specialist Services Support Team (SSST).



If the paying parent responds and pays the arrears detailed in letter CMEL7000 (a or b) be aware that the £300.00 liability order charge, where [Enforcement Charge - Reversal](#) is not applicable, may allocate to other debts that sit higher in the payment hierarchy. The Liability Order charge will show on future payment schedules until it has been satisfied.

## Prepare court file

11. Once the **Wait** period has passed, update the **Status** to **In Progress** to continue with the SR. Prepare court file



If the paying parent requests a local court, an email will be received from the referring team. The ECM identifies the court and contacts the paying parent. The court contact details can be found using Her Majesty's Courts and Tribunals Service (HMCTS) online court finder: <http://hmctscourtfinder.justice.gov.uk/HMCTS/CourtFinder.do>



For more information refer to [Court Presentation - Magistrates Court](#).

12. Check that the arrears amount specified in the letter of intention to the paying parent is still outstanding.
13.  If the amount outstanding is now lower, send CMEL7001 to the paying parent explaining the reason for the change.
14. Update the **Enforce Forms** view with the relevant details including **Mag. Court Name** and **LO Type**. To access this view, select **Update Form/Document** above the activity plan.
15. Update the activity plan to record that the LO file has been prepared. Select **Initiate** and a **Court Presentation** SR will be automatically generated.

## Prepare Court Presentation SR

16. In order to give the CPO as much information as possible, manually associate the following documents with the CPO SR:
  - CMEL7000(a) - General LO warning (CMS Debt)
  - CMEL7000(b) - General LO warning (CSA Debt)
  - CMEL7001 - Changes to LO liability (if used)
  - CMEL7401 - To tell the client that since we have recalculated their maintenance their arrears have decreased (if used)
  - CMEL7400 - Applying for additional liability order - arrears increased
  - CMEL7298 - Summons to defendant for LO hearing

For more information refer to [Correspondence - Inbound - Link to enforcement SR](#)

17. Update the **Court Presentation** SR **Status** to **Pending Assignment** to route the SR and associated file to the Specialist Services Support Team (SSST).
18. Within the LO Magistrates Court SR set a **Wait** period of three days to allow the SSST to arrange a hearing date. Once this is known set a further discretionary **Wait** period to monitor the outcome of the court hearing. Update the LO SR **Sub Status** to **Monitor for Outcome of Hearing**.
19. The CPO will complete the hearing report and mark the **Court Presentation** SR complete.
20. In the **LO Magistrates Court** SR, Select **Update Form/Document** tab and update the fields for **Outcome Of LO** and if the LO was granted; **Amt granted on LO** (include the £300.00 charge)

21. Take the relevant action depending on the outcome of the LO hearing:

- If the LO was granted, go to **step 27**
- If the LO hearing was deferred, set a **Wait** period to the due date of the next hearing. Update the SR with any relevant details and liaise with the CPO to find out if there is anything you need to do or information you need to provide in preparation for the next hearing. Once the hearing date has passed, return to **step 18**.
- If the LO was not granted, go to **step 22**



When the returned LO is received from the court it will be scanned onto the system. Check that the document has been marked for long term storage. For more information refer to [Correspondence \(Inbound\) - Request Originals/Rescan](#).

### Outcome of hearing: LO not granted

22. In the **Liability Schedule** screen, update the **From** date and **To** date to reflect the required debt period and set the **Status** to **Cancel**. Select **Query Liability Schedule** to display the relevant line items for the debt period, and select **Send Order** to unstamp the LO reference number from that debt period.



23. Issue CMEL7005 to inform the paying parent of the outcome. The CPO will have requested the court's decision in writing and informed the court immediately of the CMG's intention to appeal against the decision.



24. Send the following letters and call the receiving parent to inform the receiving parent of the outcome of LO action:

- CMEL7009 – Informs the receiving parent that the LO was not granted.
- CMEL7402 - Informs the receiving parent that we must suspend enforcement action. Call the receiving parent to explain the reason for this, when you will be looking at the case again and what will happen next.

25. Remove the £300.00 charge for the LO action as this has not been granted. For more information refer to [Enforcement Charge - Reversal](#).

26. Update **Resolution Code** to **LO withdrawn - other** and close the SR updating the **Status** to **Closed** and the **Sub Status** to **Complete**. Consider the court's reason for rejecting the LO application. If an appeal is to go ahead, please refer to the procedure for **CMG appeals**. If an appeal is not appropriate in this case then you will now proceed with Enforcement Case Routing. For more information refer to [Case Routing - Enforcement](#).



If the LO application was unsuccessful un-draft Stamp the debt period. For more information refer to [LO/LSDO - Stamping](#).



If an appeal by CMG is subsequently successful repeat the LO application process from **step 1** and proceed to show the liability order as granted, and final stamp the debt period.



In the event of an error on the part of the court, contact the CPO as they may have to attend a further hearing.

### Outcome of hearing: LO granted

27. In the **Liability Schedule** screen, update the **From** date and **To** date to reflect the required debt period and set the **Status** to **Final**. Select **Query Liability Schedule** to display the relevant line item/s for the debt period, and select **Send Order** to stamp the LO reference number to that debt period. Refer to the procedure for [LO / LSDO - Stamping](#) for further guidance.



For cases where there is CSA debt to be stamped, refer to [LO stamping CSA scheme arrears](#).



Update the **Status** to **Final** in the **Liability Schedule** view before you update the activity plan outcome to **Granted**.



Complete the **LO Granted** line of the activity plan with either **Granted** or **Not granted** as appropriate. Failure to do so will prevent the 2012 System from recognising that LO action has been taken and no further enforcement SRs are possible.

28. Send CMEL7003, informing the paying parent of the outcome and warning of subsequent recovery action and update **Sub Status** to **LO outcome letter**. In addition to the letter, consider issuing an SMS to advise the paying parent that a liability order has been granted against them and to call us. For more information refer to [SMS Text](#).



The LO may already have been handed to the paying parent at court. As best practice also locally print a copy and send it to the paying parent. It is acceptable to issue a scanned version of the LO, even if the paying parent has not previously received the LO.

29. The magistrates may, at their discretion, award the application fee or more to the CMG. Any award of costs will be clearly written on the signed LO. For more information refer to [Apply Costs](#).

30. Update the activity plan to record that costs have been applied.



31. Send the following letter and call the receiving parent to inform them of the outcome of LO action:

- CMEL7007 – Informs the receiving parent that the LO was granted. Call the receiving parent to request any information that may assist the CMG in taking recovery action

32. Set a **Wait** period of 10 days to allow the paying parent time to pay before proceeding with further enforcement actions.

33. Once the 10 day wait has expired, consider if disclosure to the credit reference agency action is necessary. For more information refer to [CRA - Disclosure of Paying Parent Information](#).

34. Issue a new collection schedule to the paying parent. This will reflect their full debt, including the enforcement charge and any further arrears that have accumulated. refer to the Arrears Negotiation and Court Enforced Schedules section of [Case Routing - Enforcement](#).  
 This may also be a good opportunity to attempt to reach an agreement with the paying parent and prevent further enforcement actions
35. To complete the process update **Resolution Code** to **LO granted** and close the work item. Proceed with Enforcement Case Routing. For more information refer to [Case Routing - Enforcement](#).  
 The paying parent may appeal against the LO. For more information refer to [Paying parent appeals](#).

## Invalidate LO

36. In certain cases it may be necessary to invalidate an LO e.g. if a paying parent makes a successful appeal. To invalidate an LO create a new SR using the values:
- **Process - Enforcement**
  - **Area - Assess next action**
  - **Sub area - Invalidate LO**
37. Update the SR with the paying parent name, case number/s and Source.
38. Update the status of the SR to In Progress. The 2012 System will generate an activity plan for **Invalidate LO** at this point.
39. Link the original **LO - Magistrates Court** SR to the **Invalidate LO** SR.
40. Update the **Reason** and the **Outcome** of the **Perform Invalidation** activity.
41. Go to the **Update form/document** button to access the **Enforce form** check that the 2012 System has correctly copied data form content from the original **LO - Magistrates court** SR into the **Invalidate LO** SR.
42. Select ctrl+S and the 2012 System will generate a new activity plan for Perform invalidation.
43. In Update Form/Document -Liability Schedule ensure status is set to **Cancel** and then select the **Send order** button to update BANCS. Navigate to PP accounts screens and select the **View liability Schedule** view and check that the LO **Status** has been updated to **Cancel**.
44.  Send letter CMEL9271 to the receiving parent and CMEL9271 to the paying parent.
45. Navigate to the **Enforce Form** to record any further information that you may wish to add to the SR, then manually close the **Invalidate LO** SR by updating the **Status** to **Closed** and the **Sub Status** to **Completed**.

Replace CMG with NI CMS.

Step 4 - For Courts in NI, identify the local paying parent Court via the paying parent's postcode.

Step 11 - First info point. For NI court contact details access the following link <http://www.courtsni.gov.uk/en-GB/Services/CourtLists/Pages/PublicCourtLists.aspx>

### CMEL7000 We Are Applying for a liability order against you

Advise paying parent of application for liability order.

In the free text fields under the sub heading 'What happens next' input the total maintenance, payments made, interest on arrears, financial penalty amount, fees outstanding and the total amount.

Once completed review the letter to ensure the correct information is provided.

### CMEL7001 Changes to a liability order application against you

Give notice that liability order action is continuing but amount has changed.

Under the sub heading 'Important changes to a liability order application against you' select one of the following.

If the paying parent has made a payment, use paragraph **TM\_10188\_E** 'Because you made a payment towards the child maintenance that you owe'.

If the paying parent appealed, use paragraph **TM\_10189\_E** 'Because you appealed against the amount of child maintenance that you owe'.

If the Child Maintenance Group has made a mistake which has now been corrected, use paragraph **TM\_10190\_E** 'Because we have corrected a mistake with the calculation of child maintenance that you owe'.

If an IMA or DMD has been recalculated, use paragraph **TM\_10191\_E** 'Because we have again at the amount of child maintenance you owe'.

Once completed review the letter to ensure the correct information is provided.

#### CMEL7003 The court has now granted a liability order against you

Give paying parent notice that LO action has been successful.

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

#### CMEL7005 Our child maintenance liability order application – unsuccessful

Give paying parent notice that liability order action has been unsuccessful

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

- If we will appeal the decision, use paragraph **TM\_09215\_E** 'We will now appeal against the decision'
- If we will take further action, use paragraph **TM\_09216\_E** 'We will now take further action against you'
- If we are unsure or we will not take further action, use paragraph **TM\_09217\_E** 'We will contact you shortly to tell you what will happen next'

Once completed review the letter to ensure the correct information is provided.

#### CMEL7006 Your Child Maintenance update – we are applying for a liability order

Tell receiving parent that we are applying for liability order.

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

#### CMEL7007 Your child maintenance update – liability order granted

Tell receiving parent that have an liability order and are taking action.

Under the sub heading 'Your child maintenance update'.

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

#### CMEL7009 Your child maintenance update – liability order unsuccessful

Tell receiving parent that liability order application was unsuccessful.

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

#### CMEL7400 Applying for additional liability order – arrears increased

#### CMEL7401 We are applying for a liability order against you

To tell the paying parent that we are applying for an LO because they have not adhered to the scheduled repayments they were required to pay

#### CMEL7402 Your Child Maintenance Update – Enforcement action postponed

Tell receiving parent that we are suspending enforcement action with free text for reason.

In the free text field under the sub heading 'Your child maintenance update' input the reason for suspending the enforcement action.

Once completed review the letter to ensure the correct information is provided.

[Admin Account - Add To](#)

[Apply Costs](#)

[Case Routing - Enforcement](#)

[Calculation Tools](#)

[Call - Overview](#)

[Court Presentation - Magistrates Court](#)

[Correspondence \(Inbound\) - Summary](#)

[Correspondence \(Inbound\) - Request Originals/Rescan](#)

[CMG Appeals](#)

[CRA-Disclosure-of-Paying-Parent-Information](#)

[Enforcement Charge - Apply](#)

[Enforcement Charge - Reversal](#)

Letters outbound - Off System

LO/LSDO - Stamping

LO-stamping-CSA-scheme-arrears

Paying Parent Appeals

SMS Text

Terminology Changes

What if the paying parent wants to make a payment towards the arrears amount, will the LO still go ahead?

Yes however the LO will not be enforced while the paying parent is compliant.

Will the paying parent receive notification that a liability order is being applied for?

Yes, the paying parent will receive a warning letter of the intention to apply for a LO.

Will the paying parent need to attend the court?

No, a paying parent has the right to appear at the hearing but is not obliged to.

Will the caseworker need authorisation prior to a liability order (LO) application?

No, there is no authorisation required.