




Order For Interdicting

An order for interdicting is a process used in Scottish law to prevent a paying parent from disposing of known assets to avoid paying child maintenance. This is the Scottish equivalent of a freezing order in England and Wales.

This action will be taken by case managers within Scottish enforcement who will refer the case to the Child Maintenance Group's (CMG's) contracted solicitors. The contracted solicitors will present the application to either the sheriff court or the court of session, depending on the level of arrears and complexity of the case.

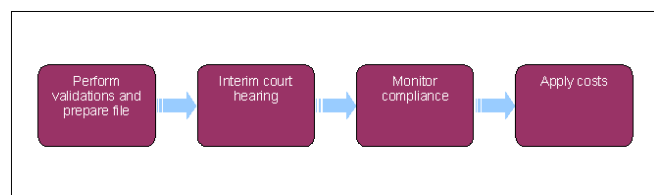
An order for interdicting may be applied for in cases where a liability order has not been granted, or has not yet been made. It may be applied for against a range of paying parent assets, although not against assets disposed of in the course of their usual business. For more information of assets covered by this action refer to the Policy, Law and Decision Making Guidance. 

Either the paying parent or the CMG may apply for a variation once the order for interdiction has been granted. This allows a different asset to be subject to the action. The variation is also presented to the court of session by the contracted solicitor.



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: [Order for interdicting](#)

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



Some actions may require an up front payment to the service provider (eg 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 the interdiction 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 the asset/s.

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

- **Process = Enforcement**
- **Area = Take Enforcement Action**
- **Sub Area = Order For Interdicting**

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 note and select **Exit**. To manually close the SR, go to **step 25**.

3. The system will present an activity plan of standard validations which may be completed in any order. Add an explanatory note in the **Update Child Welfare – Reason** field and select **Exit** if you cannot complete any of the validations. To manually close the SR, go to **step 25**.

- **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, Notify receiving parent: Select Done but don't send a letter to the receiving parent until a hearing is arranged.



Please note that if you receive an error message at this stage, select letter CML9271 (a wholly clerical letter proforma) populate the letter with "Blank letter generated to work around enforcement validation" and Xerox will ensue that the letter is not sent. This will enable you to progress.

- **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**.

If you decide to exit from this activity plan, go to **step 25** to manually close the SR. If you select **Continue** the system will automatically present the next activity plan to prepare the order for interdicting file.



The decision to apply for an order for interdicting is a discretionary decision and must be recorded as a free text entry in **Update Child Welfare Details - Reason**. For more information on discretionary decisions including a verbatim statement to record in **Notes** refer to

Policy, Law and Decision Making Guidance .

Prepare order for interdicting file

4. Review the details of the asset/s you wish to be covered by the order for indicting:


- Refer to the procedure for **Investigative Action** if you decide that more information is required about a specific asset
- If you find no evidence that the paying parent plans to dispose of the asset/s imminently, go to **step 31** to manually close the SR
- If you find that the asset value is less than "de minimis non curat lex" (a Latin term used in law that translates as, "the law is not concerned with trivial matters"), go to **step 31** to manually close the SR

If you can confirm that the paying parent plans to dispose of the asset/s imminently and that the value of the asset/s is substantial enough to merit the order for interdicting, go to **step 5**.

5. If you are going to proceed with the order for interdicting and do not yet have a liability order (LO), then apply for an LO in parallel. For more information refer to **Liability Order - Sheriffs Court**.
6. Update the **Enforce Forms** view with the relevant details including the **Balance Due Today** field. To access this view, select **Update Form/Document** above the activity plan.



Balance due today is defined as 'The amount of debt at application date for a defined debt period'. This will be the sum of debt (arrears) for which you are making an LO application. Use the debt period and amount that has been defined for the LO. In the instance where one LO is already in place and our intention is to apply for a second LO, the debt period for the order for interdicting would be: the start date of the debt period for LO1 and the end date of the debt period for which we are about to apply.

7.  Prepare letter CMEL9163 for the Litigation and Judicial Review teams. This contains details of the proposed application for them to review prior to sending the application on to the Child Maintenance Group's (CMG's) contracted solicitors.



CMEL9163 is an off system letter. You can't send it to litigation and judicial review teams via the system, only by email or courier.

8. Letter CMEL9163 is subject to line manager authorisation. Print a copy of the letter prior to issuing it, and pass it to your line manager for checking. Make a note in the SR Notes field to record the fact that you have had the letter checked.



For more information on the checking process refer to **Business Control System Checks**.

9. Send an authorisation request to your team leader by changing the SR **status** to **Pending approval team leader**. This will prompt youier team leader to arrange a conference call with the JR team to discuss the case.

10.

Prepare a case file to keep hard copies of all relevant letters and documents

Team leader action

11.

When you receive an approval SR, allow three days for the JR team to review the application pack sent by the case manager. Arrange a conference call between yourself, your manager and the JR team to discuss the case. Update the case manager with the outcome of the discussion



For more information on the checking process refer to **Business Control System checks** in related items.

Case manager action

12. If the JR and litigation teams decide that more information is required refer to **Investigative Action** in related items. Once you have completed your investigation, go to **step 14**.

13.

If the JR and Litigation teams decide that the application should not proceed, select the **Enforce forms** button and update the **Rejection reason** field, then proceed to **Step 31** to close the SR.

Interim court hearing

14.



Create a case file to send to the contracted solicitors, instructing them to present the application to the sheriff court/court of session.

Include the following documents:

- CMEL9163 - covering letter for pack
- Liability order/s
- Any other relevant documents

Set a **Wait** period of **28 days** to allow the application to be presented before the court of session.

15.



Call the contracted solicitor to confirm the interim hearing date, if they haven't already given you this. Contact the expert witness, where applicable, and arrange for them to attend the hearing. Record the hearing date in the **Hearing record** screen on the system and whether an expert witness is attending.

16.

Set a **Wait** period pending the contracted solicitor providing the result of the interim court hearing.

17.



If the order for interdicting is not granted, select the **enforce forms** tab and update the **Referral status** field to **OFI Not Granted**. Send CMEL9166 to the receiving parent and go to **step 24** to record costs and manually close the SR.

18.

If the order for interdicting is continued or sisted by the Sheriff Court/Court of Session, select the **enforce forms** tab and update the **Referral status** field to **OFI Continued/Sisted**. For more information refer to [Investigative Action](#).

19.



If the order for interdicting is granted, select the **Update form/document** tab to access the **enforce form** and update the **App outcome** field to **OFI Granted**.

20.

Send CMEL9164 to the receiving parent.



Note that CMEL9164 is an ad hoc letter - generate a new line in the activity plan to issue this letter.

21.

Call the sheriff officers and ask them to serve notice of the order for interdicting on the paying parent. Set a **Wait** period of **28 days** to allow a response to be received from the sheriff officers.

22.



Call the contracted solicitor to confirm the final hearing date, if they haven't already given you this. Contact the expert witness, where applicable, and arrange for them to attend the hearing. Record the hearing date in the **Hearing record** screen on the system and whether an expert witness is attending. Set a **Wait** period in the SR for the day after the hearing.

23.



When the final hearing date has been arranged, send CMEL9160 to the paying parent. If there is a relevant third party, send CMEL9162 to the third party (e.g. the paying parent's mortgage provider).

24.



The sheriff court/court of session may issue a consequential direction that an order for interdicting is dependent upon a liability order being granted. If the order for interdicting is dependant on any other preparatory enforcement action refer to [Enforcement Action - Consider \(Scotland\)](#).

Monitor compliance

25.

If the paying parent does not breach the order and a variation has not been applied for, the process is complete. To record costs and manually close the SR, go to **step 29**.

26.



If you need to apply for a variation on the order for interdicting, update the CMEL9163 with the new details and send it to the contracted solicitors.



The paying parent or CMG may apply for a variation against the order for interdicting. If the paying parent applies for a variation directly to the court, the contracted solicitor will advise the CMG of the outcome.

27.



If the order for interdicting is not granted, select the **Update form/document** tab and within the **Enforce form** update the **Outcome Of Final Court Hearing** field to **OFI Not Granted**. Send letter CMEL9166 to the receiving parent and go to **step 29** to record costs and manually close the SR.

28.



If the order for interdicting is granted, select the **Update form/document** tab and update the following fields in the **Enforce form**

- **Outcome Of Final Court Hearing - OFI Granted.**
- **Court decision date - update this field to 01.01.3000**
- **Outcome of final court hearing - OFI granted**

Send letter CMEL9165 to the receiving parent and go to **step 29** to record costs and manually close the SR.

Apply costs

29. Access the **Costs** applet and input any costs associated with the interdict.



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**.

30. Update the Activity Plan to confirm that you've sent a letter to the receiving parent to notify them of the outcome.

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

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

CMEL9160 Order for interdicting granted

Tell paying parent order for interdicting granted and advise date of final hearing.

Under the heading "Order for Interdicting granted" record the name of the court in the free text box.

Under "the court granted this interdict against the following asset:", record the asset details in the free text box.

Next to "The court judged that", record the court's judgement in the free text box.

Under the heading "What happens next" record the courts address in the free text boxes.

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

CMEL9162 Order for interdicting granted

Tell third party order for interdicting granted and advise date of final hearing.

Under the heading 'order for interdicting granted' record the details of the asset in the free text box.

Record the court's judgement in the free text box.

Under the heading 'What this means for you', record the court's address in the free text box.

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

CMEL9163 Decision form for order for interdiction

(off system letter)

Send case details to litigation and judicial review teams and contracted solicitors for review.

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

CMEL9164 Your child maintenance update – order for interdicting

Tell receiving parent that we are doing an Order for Interdicting and what this means plus manage expectations.

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

CMEL9165 Your child maintenance update – order for interdicting granted

Tell receiving parent order for interdicting granted explain what this means and set expectations.

Under the heading "What happens next" record the length of time in the free text box, that the interdict will stay in place.

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

CMEL9166 Your child maintenance update – order for interdicting not granted

Tell receiving parent that Order for Interdicting has not been granted and explain what this means and set expectations.

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

[Admin Account - Add To](#)

[Apply Costs](#)

[Business Control System Checks](#)

[Enforcement Action - Consider \(Scotland\)](#)

[Investigative Action](#)

Liability Order - Sheriffs Court

Terminology Changes

Who will send the order for interdicting file to the contracted solicitors?

The JR/litigation teams will return the file, as it is an offline process. The enforcement case manager retains ownership of the case/service request.