



Sequestration (Scotland)

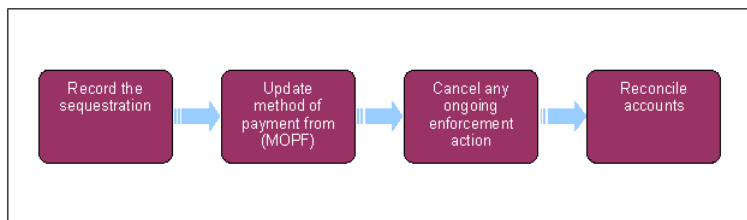
Under Scottish law a debtor may apply for a certificate of sequestration, which recognises that the applicant is insolvent. The applicant may use the certificate of sequestration to apply to the Accountant in Bankruptcy (AiB) to be declared bankrupt.

If a paying parent has a sequestration granted, child support debt has the same status as any other debt included in the sequestration. This means that the Child Maintenance Group (CMG) will be handled in the same way as any other creditors.

This procedure should be followed by whichever segment has case ownership when the sequestration is reported

The CMG cannot independently pursue any debt that is included in a sequestration order, so arrears accumulated in this period will be suspended. For more information refer to [Suspend/Unsuspend Liabilities](#). We will then advise the AiB of the amount of child support debt that falls into the sequestration period.

For further information please 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.

Record the sequestration


- We may be advised that a paying parent has been sequestrated from any of the following sources:
 - Contact from either client, the Trustee or the accountant in bankruptcy (AiB) or a Statement of Claim - The AiB may advise us of the sequestration as one of the paying parent's creditors, or we can be informed by the paying parent or receiving parent
 - Credit Reference Agency (CRA) - The sequestration source will be updated automatically when received via this route
- If not received from CRA, confirm the sequestration by checking [The Register Of Insolvencies](#).
- If CRA has not reported the change, the sequestration status will need to be updated manually. Create a **Change Address Details** service request (SR) using the options:
 - Process = CofC**
 - Area = Change Personal Info**
 - Sub area = Change Address Detail**
- Change the sub-status to **In Progress** and within the **Subject New Address** pane; change the **Address** to the Trustee or Accountant in Bankruptcy (AiB) address. Whichever is applicable.
 -  The **Address Type** should be **Permanent Residential**.
- Select the drop down for Bankruptcy Status which is in **more info** at PP contact level, and select **Sequestration**. Input the **Sequestration Date** in the **Bankruptcy Date** field.
- Update the **Sub Status** of the work item to **CoC Accepted** and then the **Resolution Code** to **CoC Accepted** also.
- Navigate to the **Case** tab and select the **Master Case** screen.
- Select the **Lock Assignment** flag, which is located within the **Set Up And Assignment Details** field. This will prevent the master case group from moving to another business area following the sequestration.
- If the paying parent has a method of payment from (MOPF) of deduction from earnings order (DEO) this must be cancelled until an account breakdown has been completed to confirm the sequestrated debt. Update the paying parent to a default MOPF of standing order. For more information refer to [DEO - Cancel](#) and [Standing Order - Set Up](#).
- Cancel** any notifications regarding the new MOPF.

11. To prevent any subsequent payments from paying out incorrectly, also set the **Manual Payment** flag on the paying parent's case/s. For more information refer to [Manual Allocation Flag – Set Up](#).



Cancel enforcement action

12. When the paying parent has ongoing enforcement action on their case/s this must be ended until the sequestration debt is confirmed by an account breakdown.
13. Where a case is identified as subject to a sequestration but is not already in enforcement, the case remains with the owning segment and progressed as normal.

Reconcile accounts

14. Complete an account breakdown for the paying parent's case/s to confirm whether they owe arrears that fall into the sequestration period. For more information refer to [Account Breakdown Tool](#).
15. The account breakdown will also confirm if any payments received after the sequestration was granted have been allocated to OGM and/or Collection Charge arrears that fall into the sequestration period. Any payments meeting this criteria must be refunded to the paying parent. For more information about generating a refund refer to [receiving parent/Payee Repayment Request - Create](#). For cases with ongoing liability please see [Payment - Non Standard](#)
16. Any Sequestration period arrears that are identified as a result of the account breakdown must be suspended. For more information refer to [Suspend/Unsuspend Liabilities](#).
-  Please be aware that future liabilities can not be suspended on the system. User will need to review the case on an ad hoc basis to ensure the relevant period is suspended as liabilities are created.

Complete action

17.  Once the account breakdown has been completed and the sequestrated debt balance confirmed, send form 5 (statement of claim by creditor) to the Trustee (AiB or private insolvency practitioner) to advise them of the amount owed to us by their client. Send this alongside a copy of the account breakdown. Form 5 can be accessed by clicking on the following link and selecting **form 5 - statement of claim by creditor.pdf**. For guidance on how to complete form 5, see [Customer Materials](#) tab.
- [Form 5 - statement of claim by creditor](#)
18.  Clerically send letter CMSL3414 to the paying parent, and CMSL3415 to the receiving parent/s to advise them of the action you have taken.
19. If any dividends are received during the sequestrated period which need to be allocated against the sequestrated debt, please raise an incident to for enforcement design team to provide guidance on how to do this.
20. Once all action has been completed remove the Manual Allocation flag. For more information refer to [Manual allocation flag remove](#).
21. Remove the sequestration status on the case by creating a **Change Address Details** service request (SR) using the options:
- **Process = CoFC**
 - **Area = Change Personal Info**
 - **Sub area = Change Address Detail**
22. Change the sub-status to In Progress and within the **Subject New Address** pane input the **paying parent's address**. Ensure the **Bankruptcy Status** field and the **Bankruptcy Date** field are blank.
23. Update the **Sub Status** of the work item to **CoC Accepted** and then the **Resolution Code** to **CoC Accepted**.
24. To ensure the case is routed to the correct segment following actions, remove the lock assignment flag. Go to the **Case** tab and select the **Master Case** screen and remove the lock assignment flag.

Form 5- Sequestration, statement of claim

To accountant in bankruptcy - Statement of claim by creditor

Section A - Correspondence address held by the paying parent. If the address is DLO, use the last address held

Section B - Use current CMS address PO Box 249, Mitcheldean, GL17 1AJ

Section C - Name of case worker who is submitting the form on behalf of CMS

Section D - Section only used if other proceedings e.g. claim to a 3rd party for part of or all of the debt being submitted in Bankruptcy / Trustee

Section 1 - Child maintenance debt covering period from initial assessment up to and including the day before the date of sequestration

Section 2 - Total amount of arrears due from the effective date up to and including the day before the date of sequestration. This includes collection charges and costs incurred during the lifetime of the case

Section 3 - Debt is not secured

Section 4 - Does not apply

Section 5 - Does not apply

[CMSL3415 - Sequestration, letter to receiving parent](#)

To receiving parent- Letter content not yet available (10/12/12)

CMSL3414 - Sequestration, Letter to paying parent

To paying parent - Letter content not yet available (10/12/12)

Related Items

[CMS System Finance Overview.](#)

[Case Routing - Enforcement](#)

[Change - Address Details](#)

[DEO - Cancel](#)

[DER - Cancel](#)

[Manual Allocation Flag - Set Up](#)

[receiving parent/Payee Repayment Request - Create](#)

[Standing Order - Set Up](#)

[Suspend/Unsuspend Liabilities](#)

[Terminology Changes](#)

[Work Allocation](#)