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Overview

The Child Maintenance and Other Payments Act 2008 gave the Child Maintenance Group (CMG) a number of new enforcement powers, including the power to share information about the non-resident parent with credit reference agencies (CRAs). The Child Support (Miscellaneous and Consequential Amendments) Regulations 2015 amended the Child Support Information Regulations 2008 to enable the introduction of this power from the 23rd March 2015.

This change allows us to share prescribed information with CRAs where non-resident parents give their consent, or without their consent if a Liability Order (LO) is in force against the non-resident parent. Initially we will only share information where a Liability Order is in force, without the non-resident parent's consent. Further guidance updates will advise of things to consider when sharing information about non-resident parents with their consent.

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When should sharing information with CRA's be considered?

Disclosure to credit reference agencies can currently only be considered in the following circumstances:

- when a LO is in force against the non-resident and;
- 21 days (plus necessary postage timings to include the day of postage plus 2 days) have passed since a written notice was posted to the non-resident parent advising them that we intend to supply information about them to a CRA; and
- the welfare of the child has been considered; and

- the NRP has not agreed to a payment agreement where the outstanding amount will be repaid in line with our debt steer, caseworkers should note that if a non-resident parent enters into a payment arrangement (a plan where payments are recovered outside of the debt steer) their information should still be shared with CRA.

When a caseworker decides to share a non-resident parent's information with CRAs they will need to share the following information in relation to that non-resident parent:

- name;
- last known or notified address;
- date of birth;
- the date on which the LO in force against that person was made;
- the amount in respect of which the liability order was made including any charges and costs/expenses awarded by the court if included within the LO;
- address stated in the LO, if different from the last known or notified address;
- the reference number used by the Secretary of State to identify the person's case.

The only other information that may be supplied to a CRA is:

- that the amount in respect of which the LO was made has been paid in full and the date on which the final payment was made;
- that the LO against the non-resident parent has been set aside or quashed by a court (but this information may only be shared if the non-resident parent consents to its disclosure).

Caseworkers must not supply any other information to a CRA and must ensure that the information supplied is accurate.

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When should a non resident parent's information be shared?

Caseworkers should use these powers if all of the following criteria are met:

- a liability order (LO) is in force against a non-resident parent;

- a written notice must have been sent by post to the non-resident parent's last known or notified address at least 21 days (plus necessary postage timings to include the day of postage plus 2 days) before the information is shared. The written notice must warn the non-resident parent of our intention to supply information about them to a credit reference agency. This is required by the regulations;
- the non-resident parent has not made arrangements to pay off the LO in question in full or agree to a payment plan within our debt steer

If a caseworker considers that sharing information with CRAs may adversely affect a child's welfare they should not share information and contact the Advice and Guidance Team.

Only the information set out (above/below) may be shared.

Can a non-resident parent appeal our decision to share their information with CRA's?

No, this action does not carry a right of appeal.

What if there is an on-going appeal or judicial review?

If there is an on-going appeal or judicial review against the granting of the LO, caseworkers should not share a non-resident parents information with CRAs.

What if Liability Order is set aside or quashed by a Court?

If information has been shared about a non-resident parent with a Liability order and that liability order is subsequently set aside, for example following a late appeal or successful dispute of parentage, case workers will need to contact the non-resident parent to obtain their consent so the CMG can advise the CRA that the order has been set aside or quashed (as appropriate). Once that consent is obtained, the caseworker must contact any CRA that the information has been shared with and advise them that the Liability Order has been set aside or quashed (as appropriate). This will enable the CRA to amend their records to reflect that the liability order should be treated as if it never existed.

Note: Before caseworkers contact CRAs to provide this information they must obtain the permission of the non-resident parent, ideally in writing. This is because the Power only allows us to share information with CRAs where the client consents to it, or there is a liability order in place. If the liability order has been quashed or set aside it no longer exists, so there is no longer a liability order in place. Therefore we require the client's consent before we can advise a CRA that the LO has been set aside or quashed.

What if the non-resident parent contacts us?

If the non-resident parent contacts you, you will need to explain that as a result of non-compliance we have been granted a liability order against them, and that new legislation that came into force on 23rd March 2015 allows us to share certain information about the LO and the non-resident parent with CRAs when a LO has been granted. Explain that if they pay their debt off in full we can share this with CRAs who will mark the debt as satisfied on their records.

What if the non-resident parent starts to make payments?

Once information about the non-resident parent has been shared with CRA's, caseworkers should only inform CRA's once the non-resident parent has paid off the amount of the LO in full including any charges or costs/expenses awarded by the court that were included in the LO. When they do this they should also tell CRA's the date of the final instalment.

What if the non-resident parent agrees to make payments by instalments?

If the non resident parent agrees to make payments by instalments, within the departments debt steer within the 21 days of the warning letter going out you should not share their information with CRA's.

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PLDMG @ 09.03.2017