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[Freezing Orders: Overview](#)

[1981/54](#) *Section 37(1) and section 37(3) of the Senior Courts Act 1981*

[1998/3132](#) *Rule 25 of the Civil Procedures Rules 1998*

[1991/48](#) *Section 32L of the Child Support Act 1991*

[2009/3151](#) *Regulation 3 of the Child Support (Management of Payment and Arrears) Regulations 2009*

What is a freezing order?

A freezing order is an interlocutory injunction that can be obtained to prevent a debtor from disposing of / dealing with their assets while other court proceedings are concluded. For example: a freezing order may be obtained to prevent a non-resident parent from selling or transferring their property to allow the CMG time to obtain a charging order.

"Interlocutory injunction" means a court remedy that is issued to prevent a party doing something, but that is not final to the rights of the parties and does not determine the merits of the case or decide issues in disagreement. They are solely intended to prevent a change of circumstances that could hamper the case or prevent an available remedy (e.g. a charging order) being effective once the merits of the case have been considered through associated proceedings.

Most orders may be made *ex parte*, meaning a decision is decided by a judge without requiring all of the parties (i.e. the non-resident parent) to the application to be present.

In principle, freezing orders can be requested in relation to a range of assets, including: land, property, cars, jewellery, boats etc. However, in practice, they will normally be requested in relation to land or property, due to the difficulty in obtaining evidence regarding other assets and the costs involved in obtaining a freezing order.

Where the court is satisfied that the non-resident parent is intending to sell or transfer property with the intention of avoiding payment of their child maintenance, they may make an order with consequential provisions or directions as the court thinks fit. One of the conditions may be e.g. a payment order or disposal of the

property, where the funds from the sale would be used to satisfy (or partially satisfy) the child support debt.

Note: The Policy steer is to only accept a freezing order against a solely owned asset.

The court will allow the non-resident parent to apply to set aside or vary the freezing order.

When should a freezing order be considered?

Freezing orders should only be considered if:

- the value of the asset and the non-resident parent's arrears both exceed £3,000
- the non-resident parent has been notified of the arrears, i.e. an arrears notice as prescribed in Regulation 3 of the Child Support (Management of Payments and Arrears) Regulations 2009 has been issued
- there is a liability order in place or action to apply for a liability order has commenced
- there is clear evidence that the non-resident parent owns the asset that is to be disposed
- there is information / evidence to indicate that suitable assets are available for this type of action
- there is information / evidence to indicate that the asset is being / is going to be disposed of or removed from relevant jurisdiction. NOTE: you must ensure that the information received about the asset being sold is reliable and that it is not hearsay

Refer to the [Decision Making Guidance](#) for further advice on each of these requirements.

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An application for a freezing order should be considered if we are notified that a non-compliant non-resident parent is disposing of, or intending to dispose of, a suitable asset.

If you decide that it is appropriate to apply for a freezing order, an application pack must be completed, including all relevant information / evidence and indicating how long the order is needed.

If the application is approved, it will be forwarded to the Judicial Review Team, who then forward the application pack to DWP Litigation. The Judicial Review Team will support DWP Litigation as necessary re any further actions needed. DWP Litigation will make the necessary arrangements for a High Court hearing, without notice in the first instance.

Applications for freezing orders should be made in the jurisdiction where the relevant property is located. This applies irrespective of whether the non-resident parent lives in that jurisdiction or not.

This means, if a non-resident parent lives in Scotland, but the relevant asset / property is located in England or Wales, the freezing order application must be made to the court in England or Wales and vice versa.

The CMG is required to serve the order on the non-resident parent and explain the terms of the order. A confident address must therefore be held for the non-resident parent.

Non-resident parents can register any objections to the order with the court, who may direct that there should be a Review Hearing.

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If you are considering applying for a freezing order, you must normally be satisfied that all of the following requirements are met:

REMEMBER: in addition to the following requirements, there must be a liability order in place or action to apply for a liability order must have commenced.

Arrears and value of asset exceed £3,000 and debt is enforceable

The non-resident parent's arrears and the value of the asset that you are considering seeking an order against must normally both exceed £3,000.

This is because of the costs involved in obtaining an order of this type.

Cases will also not be suitable for a freezing order if the entire debt is unenforceable (e.g. the debt became due prior to 13 July 2000). Refer to the guidance on [unenforceable debt](#) for further advice on when arrears become due.

There is a suitable asset and evidence it is owned by the non-resident parent

The following types of assets may be suitable for freezing order action. But remember that the value of the asset must exceed £3,000 and evidence must be

held that the non-resident parent is the sole owner of the asset and that there is sufficient equity.

- **property:** any property registered in the United Kingdom in the non-resident parent's name (as per the Land registry) and which is owned solely by the non-resident parent and not used for business purposes
- **capital assets:** any asset that produces an income. For example: where the non-resident parent rents out residential property which is solely owned
- **vehicles:** any type of vehicle that is registered in the non-resident parent's name (as per the DVLA) and is not used for business purposes
- **financial portfolio items:** stocks, shares, securities or other commodities that are owned by the non-resident parent
- **collectable assets:** such as valuable works of art or jewellery

NOTE: this is not an exhaustive list.

The non-resident parent has been notified about the debt

We must be able to demonstrate that the non-resident parent knows about the arrears in order to pursue a freezing order. This means that:

- a confident address must be held for the non-resident parent, and
- notification of the liability must have been issued to that address. This means the latest issued arrears notice to demonstrate awareness of the arrears due

The CMG must also have sent and be able to produce a copy of at least one arrears notice. providing this action has been taken, any subsequent attempt by the non-resident parent to dispose of an asset can be automatically deemed by the court as an attempt to avoid paying maintenance.

Evidence that the non-resident parent is disposing of / intends to dispose of the asset

The information / evidence you will need to confirm that the non-resident parent is disposing if / intending to dispose of a particular asset will depend on the type of asset involved. Guidance on the type of details you should request is provided below.

Property

You should ask the party that reports the asset is being disposed of:

- if they are aware of a "for sale" board outside the relevant property and if so, can they confirm the name of the estate agent

- if they know whether the non-resident parent is the sole owner of the relevant property
- if they know how far the sale process has progressed: e.g. is the property under offer, or has the non-resident parent said when they are intending to move
- if the non-resident parent is transferring ownership, rather than selling, the property, do they know who the title is being transferred to
- if they can provide any information about the approximate value of the property

Capital assets

You should ask the party that reports the asset is being disposed of:

- how do they know that the asset is being sold / disposed of
- do they know where the asset is likely to be sold: for example at auction, over the internet, through newspaper listings
- if they know how far the sale process has progressed: for example, has the non-resident parent received an offer
- if they can provide any information about the approximate value of the asset

Vehicles

You should ask the party that reports the asset is being disposed of:

- if they know how the vehicle is being sold. E.g. is it being advertised locally / on the internet
- if they know whether the non-resident parent is the registered owner of the vehicle and whether they use it for business purposes
- if they know how far the sale process has progressed: e.g. has the non-resident parent received an offer
- if they can provide any information about the approximate value of the asset

Financial portfolio items

You should ask the party that reports the asset is being disposed of:

- if they know the type of financial items that the non-resident parent owns and how they are intending to dispose of them (we could try to verify information of this type using Companies House / CWOL)
- if they know the name of the non-resident parent's accountant

- if they know how far the sale process has progressed, for example, has the non-resident parent received an offer
- if they can provide any information about the approximate value of the asset

Note: a Senior Compliance Inspector can use Asset Checker to confirm if the non-resident parent owns shares.

Collectable items

You should ask the party that reports the asset is being disposed of:

- if they know how the item is being sold: for example, through local / internet advertisement
- if they know how far the sale process has progressed, for example, has the non-resident parent received an offer
- if they can provide any information about the approximate value of the asset

Evidence that disposal of the asset falls within the scope of section 32L of the Child Support Act 1991

The CMG must be able to demonstrate to the court disposal of the asset as required by section 32L of the Child Support Act 1991.

The CMG must have information / evidence to indicate that the non-resident parent is:

- the sole owner of an asset, and
- is disposing of / about to dispose of that asset, and
- is doing so outside a connection with any of their business interests

The CMG may have specific evidence that a non-resident parent is about to sell / transfer ownership of their assets. For example: copies of property advertisements. if there is no evidence of this type, the CMG must still have sufficient information to demonstrate a strong arguable case on the claim against the non-resident parent.

NOTE: freezing orders cannot be obtained where the non-resident parent has made arrangements to dispose of an asset in a will or codicil.

REMEMBER: If the non-resident parent suffers any financial loss / damage due to our application, the CMG may be ordered to compensate them for any costs / losses incurred if we cannot demonstrate that the application was justified.

Freezing order application is appropriate: next steps

If you decide it is appropriate to make a freezing order application , you will need to complete an Application pack. The following sections provide additional information about the type of details / evidence you will need to include.

Application: required contents

A freezing order application must include:

- a list and hard copies of all evidence gathered in support of the application, ensuring any photocopies are certified as true copies
- details of the next intended enforcement action that will be taken, if the freezing order is granted
- a request to the High Court to freeze the asset to prevent the non-resident parent from dealing with it for a length of time that will allow the next enforcement action to be completed
- the amount of time that will be required for the next enforcement action to be completed (see the section on order duration for further advice)
- confirmation that the welfare of any child potentially affected by the granting of a freezing order has been considered
- the account breakdown
- any other supporting evidence attached as an appendix
- a copy of the latest issued arrears notice
- a statement confirming the CMG wishes to apply for any costs incurred in obtaining the order

Application: order duration

When you apply for a freezing order, you must state how long the CMG needs the order to last. The time required will depend on which is the next enforcement action to be taken. Details of the most appropriate action and the time that will be required to complete it as follows:

Action	When Appropriate	Time Required
Liability order	If there is no liability order in force	20 weeks
Order for recovery	To register the liability order in the county court	4 weeks
Charging order	If the non-resident parent has property	20 weeks

Bailiff action	If the non-resident parent has vehicles, collectable assets or capital assets	23 weeks
Third party debt order	If the non-resident parent has financial portfolio items	15 weeks

When the application pack has been completed, it will need to be checked and approved. If the application is approved it will be forwarded to the Judicial Review Team, who then forward the application pack to DWP Litigation. The Judicial Review Team will support DWP Litigation as necessary re any further actions needed. DWP Litigation will make arrangements for the High Court Hearing, without notice in the first instance.

NOTE: in England and Wales, all freezing order hearings will be held at the High Court in London, to ensure the availability of barristers / DWP Litigation.

Freezing order hearing: outcomes

NOTE: freezing order hearings are held without the non-resident parent being given notice. The court is unlikely to order a review hearing, but will allow the non-resident parent to apply on notice to set aside / vary the order. DWP Litigation will inform the CMG if this is the case.

At the freezing order hearing, the judge will grant or reject the order or adjourn the hearing. The action you need to take will depend on which of these outcomes applies.

Hearing adjourned

If the judge has directed that there should be a review hearing, this may be adjourned for further information / evidence to be submitted. DWP Litigation will liaise with the CMG regarding any additional requirements.

Order granted

If the freezing order is granted, DWP Litigation will notify the CMG of this action.

The order should be checked for any specific directions from the High Court. For example: if the freezing order has been granted in relation to property, the court may direct that the CMG must obtain the liability / charging order by a specific date.

The court may also give directions about what is the most appropriate enforcement action. In these circumstances, any such directions must be adhered to. Otherwise,

you would decide on the most appropriate next enforcement action, depending on the circumstances of the case and the type of assets involved.

If an order is granted, the non-resident parent must be served with it. It is the CMG's responsibility to ensure this action is completed by Process Service which is carried out by the contracted Bailiffs.

Order rejected

If the freezing order application is rejected, DWP Litigation will notify the CMG of this and will also advise whether there are grounds for an appeal to be made against this decision.

If DWP Litigation advise that there are no grounds for appeal then no further action should be taken in relation to the freezing order.

NOTE: If the application is rejected at a hearing without notice, the CMG must inform the non-resident parent that this action was attempted, unless the CMG has permission from the court not to do this. For example: because solicitors inform the court that the CMG will appeal against the decision.

If DWP Litigation state there are grounds for an appeal, then any appeal must be made to the Court of Appeal within a period of time specified by the court. It is therefore important that any action required to ensure an appeal is submitted in time is completed as a priority. DWP Litigation will liaise with the CMG to ensure the necessary requirements are completed.

Non-resident parent disposed of asset before freezing order hearing

When DWP Litigation submit the freezing order application, they will include a request that if ownership of the asset changes before the order can be granted, the court consider the application for setting aside disposition action (this means that ownership of the asset is returned to the non-resident parent). Where this applies, the CMG will need to provide evidence that the non-resident parent deliberately disposed of the asset to avoid their child support debt. Refer to the guidance on setting aside of disposition orders for further advice.

Variation of a freezing order

The non-resident parent, the CMG or an affected third party can ask for the freezing order to be varied at the initial review or review hearing.

Reasons for requesting a variation could include:

- asking for a different asset to be frozen

- asking for a different time period (for example: where the CMG has been given six months to complete its next enforcement action, the non-resident parent might ask for this period to be reduced)

Any requests for a variation will be dealt with by DWP Litigation.

Withdrawing a freezing order application

In certain circumstances, it may be appropriate for a freezing order application to be withdrawn. For example:

- if the non-resident parent pays their arrears in full
- if the non-resident parent dies
- if the parent with care states they do not want the CMG to pursue arrears due to them

In these circumstances, DWP Litigation must be informed as soon as possible so that they can send the application for withdrawal to court.

Freezing Order Revoked

The court's standard order will usually permit the order to be revoked in writing by the CMG once:

- the charging order is in place, or
- the timescale of the order has lapsed

Unless ordered by the court the granting of a charging order would not automatically revoke the freezing order.

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