

## [Suspend/ Pause Arrears: Contents](#)

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### [Suspend / Pause Arrears: Overview](#)

[1991/48](#) *Section 29 of the Child Support Act 1991*

[1992/1989](#) *The Child Support (Collection and Enforcement) Regulations 1992*

[1991/2628](#) *Article 29 of the Child Support (Northern Ireland) Order 1991*

[1992/390](#) *The Child Support (Collection and Enforcement) Regulations (Northern Ireland) 1992*

Where it is not appropriate to collect arrears, the CMG may Suspend or Pause Arrears. The caseworker must consider suspending the arrears in cases where there is a permanent inability to collect arrears. If the inability to collect arrears is only temporary, the caseworker must consider pausing the arrears.

#### Suspending Debt

Suspending the collection of a debt may be appropriate, where it will never be possible to recover the debt and 'write off' is not appropriate. For example, where the non-resident parent has permanently moved abroad and enforcement action has been exhausted.

#### Pause Arrears

Pausing arrears may be appropriate in sensitive circumstances or when enforcing recovery would be unusually difficult. For example, when the non-resident parent has a financial or personal change such as being made unemployed, becoming sick or being committed to prison or it is not appropriate to recover a parent with care overpayment due to their current circumstances.

A review date can be set to monitor a change of circumstances where it would be appropriate to collect the arrears. A review date can be set as required, provided it does not exceed 12 months and a further review date set as necessary.

Note: suspending / pausing Arrears of debt is purely an internal business function. The suspended / paused debt still exists and is usually collectable. See [Evidence and Decision Making Guidance](#) for further information.

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## Suspend / Pause Arrears: Process

Where there is evidence that it would not be appropriate to collect arrears, you must consider whether the debt should be suspended or paused.

Types of debt that may be suitable for suspension / pausing

The types of debt that may be considered for suspension are:

- child maintenance arrears owed by the non-resident parent;
- other liability debt - any debt that may be owed by a parent with care, or other debts owed by the non-resident parent, such as DNA test fees and court costs.

For further information refer to: [Examples when suspending debt / other liabilities may be appropriate](#) and [Examples when pausing arrears may be appropriate](#).

### Review Date

When pausing arrears a review date must be set. Caseworkers will set the review date to the date it is expected that the non-resident parent's circumstances will change, where it would be appropriate to collect the arrears. A review date can be set as required, provided it does not exceed 12 months and a further review date set as necessary.

### Previous Suspended Debt Decisions

When considering any case where a decision has previously been made to suspend / pause arrears, caseworkers must always have regard to the accuracy and validity of those previous decisions and not merely accept the decision at face-value.

### Decision Making

A discretionary decision made in respect of suspending / pausing arrears must be fully documented. The decision must include details of why and how the decision has been reached so if that decision is later disputed or queried, it can be seen to have been made reasonable and giving due regard to the Welfare of the Child. See [Evidence and Decision Making](#) for further guidance.

### Contacting the client

When contacting the client, any suspended / paused arrears should be included in the overall arrears balance. However it must be explained to the client that the suspended / paused arrears will not be collected at this time and we may re-visit these arrears at a later date.

Note: Arrears subject to sequestration must **not** be included in the overall arrears balance. If the non-resident parent remains non-compliant post sequestration then it will only be those later arrears that may be sought. see ['Liability Orders \(Scotland\), sequestration'](#) for further information.

Under no circumstances must parents with care , non-resident parents or any third party be told that a debt (all or part) is being written off or that their debt is nil.

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## [Suspend / Pause Arrears: Decision Making Guidance](#)

### Check case

Caseworkers must complete a thorough check of the case and person events prior to suspending / pausing arrears. This will assist in establishing whether it is appropriate to suspend / pause collection of the debt and ensure accuracy of the debt amount. The check must be a full check and include:

- completing any outstanding change of circumstances;
- confirming the debt amount is correct; and
- considering both client's circumstances.

The caseworker should use their judgement and knowledge of the case to make a decision as to whether it is appropriate to suspend / pause collection of the debt.

The length of time for which arrears are paused is at the discretion of the CMG and set as necessary. A review date cannot be set for a period of longer than 12 months.

Note: when considering pausing arrears (for example, non-resident parent in prison) determine whether enforcement action is feasible and can still be taken.

### Enforcement Action Appropriate

Where there is reason to believe that it would be appropriate and enforcement action could be taken, do not suspend / pause the collection of arrears prior to a referral to Civil Enforcement. Discuss the circumstances of the case with a Team Leader or contact the Advice and Guidance Team prior to making the referral.

## [Examples when suspending debt / other liabilities may be appropriate](#)

The following list demonstrates when it may be appropriate to suspend debt and the points you will have to consider.

This list is not exhaustive.

## **Death of the non-resident parent: other liabilities**

Other liabilities such as DNA fees, court costs / fees and overpayment of a refund / reimbursement cannot be recovered by making a claim against the non-resident parent's estate. 'Other liabilities' debt does not meet the criteria for write off. Therefore, the other liabilities debt must be suspended.

Note: you will have to be satisfied that the notification of the non-resident parent's death is factual. See [Verification of Death](#) for further information.

## **Death of non-resident parent: refund / reimbursement**

[2009/3151](#) Regulation 8 of the Child Support (Management of Payments and Arrears) Regulations 2009

Where there is a refund / reimbursement due to the non-resident parent, this cannot be actioned until the executor of the estate has been established. Any refund / reimbursement of child maintenance will need to be allocated directly to them.

Initially, consider pausing the arrears to prevent any refund / reimbursement being progressed. Once it is deemed that there is not an executor of the non-resident parent's estate, the refund / reimbursement can be suspended.

Note: any refund / reimbursement can be applied to arrears.

## **Non-resident parent in residential care**

Where the non-resident parent is in a residential care home or nursing home, and is in receipt of a benefit, pension or allowance that would otherwise result in a flat rate liability, or who has the whole or part of the cost of their accommodation met by a local authority (LA) consider suspending / pausing the debt.

If there is evidence to indicate that the non-resident parent is unlikely to be discharged from the residential care / nursing home, it would be appropriate to suspend the debt.

If there is any indication that the non-resident parent may be discharged from a residential care / nursing home, see 'Examples when pausing arrears may be appropriate' below.

## **Non-resident parent abroad (Suspend)**

Where a non-resident parent is now resident abroad i.e. no longer habitually resident in the UK, unless they are paid by a UK employer (DEO appropriate) or they have assets in the UK (enforcement action appropriate), you must consider suspending / pausing the debt. See [Habitual Residence](#) for further information.

Death of parent with care: overpayment of child maintenance

Where a parent with care dies and they have a debt e.g. overpayment of child maintenance, if there are no arrears to allow the overpayment to be offset against, the debt cannot be pursued. The CMG do not have the legislation to write off debt which is due by a parent with care.

You will have to be satisfied that the notification of the parent with care's death is factual. See [Verification of Death](#) for further information.

Note: in the 2012 scheme there is no functionality to suspend arrears owed by the parent with care to the CMG, if the parent with care is deceased. A Manual Process (MP49) has been designed to manage the small number of cases where this occurs.

As there is no ongoing maintenance the case enters the MP49 small system - and we do not recover the overpayment, the MP49 small system captures case details; and they are marked if we want to recover the overpayment or not. Finance have access and are aware they should disregard, as this debt cannot be written off.

#### [Examples when Pausing Arrears may be appropriate](#)

The following list demonstrates examples when it may be appropriate to pause arrears and the points you will have to consider.

This list is not exhaustive.

#### **Death of non-resident parent**

[2009/3151](#) Regulation 11 of the Child Support (Management of Payments and Arrears) Regulations 2009

[2009/422](#) Regulation 11 of the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009

When a non-resident parent has died, the CMG can make a claim for any child maintenance arrears against the estate of a deceased NRP. Recovery from a deceased's estate action may take up to two years from the date of the non-resident parent's death. Until the outcome (payment and/or write off action) of the claim from the recovery from the deceased's estate action is known, you will have to consider pausing the arrears.

Note: You will have to be satisfied that the notification of the non-resident parent's death is factual. See [Verification of Death](#) for further information.

#### **Death of parent with care**

Where a parent with care has died, only an executor of the parent with care's estate or a person with a 'grant of representation' can request collection of child support arrears.

When a parent with care dies, any outstanding child maintenance arrears will be suitable for write off. However, before doing so we must try and trace an executor to give them the chance to make representations asking us to collect. Even if they do make representations, we will not necessarily decide to collect and may make the decision to write off.

You will have to consider pausing the arrears in the period when it is being determined if there is an executor and to allow them to make representations.

Note: you will have to be satisfied that the notification of the parent with care's death is factual. See [Verification of Death](#) for further information.

### **Sequestered debt**

Note: sequestered debt only refers to Scotland. Sequestration is the term used in Scotland for bankruptcy. If the non-resident parent in England / Wales or NI is made bankrupt, the debt remains collectable. Therefore bankruptcy debt would not be considered for 'Pausing'.

See ['Liability Orders \(Scotland\)](#), sequestration for further information.

A non-resident parent is discharged of any debt up to and including the day before the date (date of the sequestration order) of sequestration. Therefore the CMG cannot collect sequestered debt.

As dividends (payments made from the non-resident parent's ingathered estate by the Trustee dealing with the sequestration) may be received from the sequestration, therefore initially the arrears should be paused and the review date set as 12 months from the date of sequestration. The review date may be reset if e.g. the Trustee has advised that the non-resident parent's property is for sale and once sold may release a dividend.

On discharge, the non-resident parent's debt is legally extinguished, therefore sequestered debt does not meet the criteria for write off. Once the non-resident parent has been discharged from sequestration (usually one year) and it has been confirmed with the Trustee that there will be no further dividends received, the remaining balance of the sequestered arrears should be suspended.

**Note:** As sequestered debt is extinguished, it should be removed from our records. However, currently there is no functionality to delete such debt, therefore the sequestered debt must be **permanently suspended**.

### **Non-resident parent in prison**

Where a non-resident parent is in prison, you will have to consider if enforcement action may be appropriate. For example: if there is evidence of the non-resident parent having received an amount of income either before being committed to prison or whilst in prison, enforcement action could still be taken:

- where the non-resident parent has received income from the sale a property or car, or through a divorce settlement - a deduction order / third party debt order may be appropriate; or
- if the non-resident parent's property is to be sold - charging order or freezing order action must be considered.

This list is not exhaustive.

Where the non-resident parent is in prison and it is unlikely that any of the usual methods of collection / enforcement action would be appropriate, consider pausing the arrears.

A review date should be set for the expected date of the non-resident parent's release from prison. Note: a review date can be set as necessary, provided it does not exceed 12 months.

When notification is received that the non-resident parent has been released, and evidence of a regular or irregular income is received, the debt may be pursued.

#### **Non-resident parent in hospital / long term sick**

Where a non-resident parent is long-term sick and their income reduces as a result, you should consider if it is appropriate to pause the arrears.

If the non-resident parent is a patient in hospital and the stay is long-term or the non-resident parent is critically ill, the arrears may be paused.

Debt may also be suspended if the non-resident parent is not entitled to sick pay of any description.

Note: you will also have to consider if a change of circumstances is appropriate, where there is a change in the non-resident parent's income by 25%.

A review date should be set for the date of the expected recovery of the non-resident parent, e.g. the non-resident parent has had an operation and the expected recovery period is three months, set a review date of three months. Note: a review date can be set as necessary, provided it does not exceed 12 months.

#### **Non-resident parent abroad (pause)**

Where a non-resident parent is now resident abroad i.e. no longer habitually resident in the UK, unless they are paid by a UK employer (DEO appropriate) or they have assets in the UK (enforcement action appropriate), you must consider suspending the debt. See [Habitual Residence](#) for further guidance.

If there is an indication that the non-resident parent will only be resident abroad temporarily, consider pausing the arrears.

A review date should be set for the date of the expected return of the non-resident parent to the UK> For example: if all evidence indicates that the non-resident parent has moved abroad for e.g. a period of one year, set a review date for 12 months. Note: a review date can be set as necessary, provided it does not exceed 12 months.

### **Non-resident parent cannot be traced**

Where every effort has been taken to trace a non-resident parent without success, consider pausing the arrears.

A 12 monthly review must be completed to attempt further trace.

### **Active duty**

If a member of Her Majesty's Forces is on active duty in a recognised war zone and where a Deduction from Earnings Request (DER) is already in place collecting monies, this should remain in place.

Where arrears have accrued and it is deemed that a DER would be appropriate, if the non-resident parent is on active duty (i.e. at war), they will not be available to negotiate payment of arrears. In these circumstances the arrears should be paused.

A review date should be set for the expected date of the non-resident parent's return from active duty. Note: a review date can be set as necessary provided it does not exceed 12 months.

See [Deduction from Earnings Orders and Deduction from Earnings Requests](#) for further guidance in relation to non-resident parents being on active duty.

### **Suicide threats**

Client distress can cover a number of things and it is down to the individual caseworker to make a judgment on the severity of the distress being experienced by the client. Threats of suicide are a clear indication that a case should be considered by the nominated officer, but other behaviours may also require to be dealt with by the nominated officer:

- threats of harm to themselves;
- threats of harm to others;
- extreme stress allegedly induced by the CMG involvement.

This list is not exhaustive.

When pursuing arrears is likely to have a detrimental affect on the non-resident parent, the nominated officer will consider pausing the arrears.



If action carried out by the nominated officer on the case has relieved the client's distress and there are no longer reasons to believe that the client's threat of suicide or distress is still valid, the case status will be reviewed to consider the next action.

### **Parent with care overdraft**

Overpayment of Maintenance Recovery may occur e.g. following a retrospective assessment. These arise when a parent with care has been receiving the entitlement and a subsequent change of circumstance lowers or ceases the entitlement amount from a past (retrospective) date.

Where it is not possible or not appropriate to recover an overpayment from ongoing maintenance using regulation 8 of the Child Support (Management of Payments and Arrears) Regulations 2009 or Regulation 8 of the Child Support (Management of Payments and Arrears) Regulations (Northern Ireland) 2009 and a lump sum reimbursement has been made to the non-resident parent, the parent with care refuses or is not in a position to repay the overpayment, consider pausing the arrears. See [Overpayments](#) for further information.

The review date should be set to periodically (generally three monthly) review the parent with care's circumstances, to determine if they are in a position to pay.

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