

Action For Reduction

An action of reduction is a process under Scottish law to reinstate ownership of an asset/s back to the paying parent when they have sold, disposed or transferred this for less than true market value in order to avoid paying their child maintenance debt. The process is used when there is good reason to believe that the paying parent has disposed of the asset/s to avoid paying their child maintenance debt e.g. transferred asset/s to their current partner.

This action will be taken by case managers within Scottish enforcement who will refer the case to the Child Maintenance Group's (CMGs) contracted solicitors. The contracted solicitors will lodge the application in the sheriff court or court of session as appropriate and will represent the CMG as required at any hearings.

An action for reduction may only be applied for against asset/s that the paying parent has disposed of for below market value, or that were not purchased in good faith by the third party.

Either the paying parent or the CMG may apply for a variation once the action for reduction has been granted. This may allow a different asset to be subject to the action, or revise the timescale of the action. The variation is also presented to the sheriff court/court of session by the contracted solicitor.

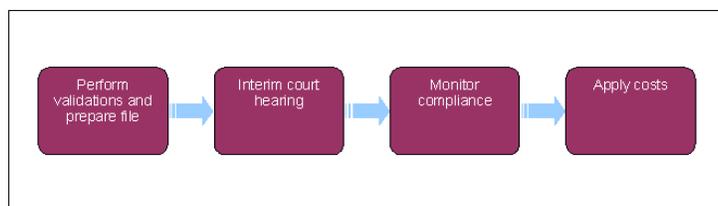


Enforcement Service Requests (SR) and Activity Plans (AP) are supported by an underlying data form, in which the enforcement case manager can record specific details as the action progresses. The complete data form for this process may be found here: [Action for reduction](#)



There is a substantial cost associated with this action and it should only be considered if the value of the asset/s being seized justifies the expense.

For more information refer to 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](#).

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

- **Process = Enforcement**
- **Area = Take Enforcement Action**
- **Sub Area = Action For Reduction**

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 **Note** and select **Exit**. Go to **step 30** to manually close the SR.

3. The system will present an activity plan of standard validations which may be completed in any order:

- 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. Refer to **step 14** for more information.
 -  To allow you to proceed with the SR, Select letter CMSL9271 (a wholly clerical letter proforma) populate the letter with "Blank letter generated to work around enforcement validation" and Xerox will ensure that the letter is not sent. Please refer to the procedure for [Letters outbound - contingency summary](#) for further details
- 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**. Go to **step 30** to manually close the SR if you decide to exit from this activity plan. If you select **Continue** the system will automatically present the next activity plan to prepare the action for reduction file.

 The decision to apply for an action for reduction is a discretionary decision and must be recorded as a **Note** 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 action for reduction file

4. Review the details of the asset/s you wish to be covered by the action for reduction:
 - You may need more information about a specific asset. For more information refer to [Investigative Action](#).
 - Go to **step 30** to manually close the SR if you find evidence that the paying parent disposed of the asset/s more than three years ago.
 - Go to **step 30** to manually close the SR if you cannot identify the current owner of the asset/s.
 - Go to **step 30** to manually close the SR if you find that the asset value is less than 'de minimis non curat lex.' (The law is not concerned with trivial matters). For more information on action for reduction refer to the Policy, Law and Decision Making Guidance. 

If you can confirm that the paying parent has disposed of the asset/s to avoid paying their child maintenance debt, and that the value of the asset/s is substantial enough to merit the order for reduction, go to **step 5**.

 Details of the new owner of the asset subject to the action for reduction are recorded in the SR Notes fields of this SR, the **Investigative action** SR, or the **Case Routing** SR.

5. If you are going to proceed with the action for reduction and do not yet have a liability order (LO), then apply for a LO in parallel. For more information refer to [Liability Order – Sheriffs Court](#)
6. Access the Scottish Court Service website, and use the **Locate Your Court** button in the Sheriff Court page to find the sheriff court which has jurisdiction for the paying parent concerned. Here is a link to the website: [Scottish Court Service](#).
7. Select the relevant sheriff court using **3rd Party Account** within **SR Information**. Once you've selected the court, this will enable you to update **Court Name** in **Enforce Forms**. This will enable future correspondence to be issued to the correct court.
8. Also within the **Enforce Form** update the **Balance Due Today** field.

 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 a LO application for. 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 action for reduction 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.

9.  Complete CMEL9170 and send it to the litigation and judicial review teams (JR team). This contains details of the proposed application for them to review prior to sending the application on to the Child Maintenance Group's contacted solicitors. For more information refer to Policy, Law and Decision Making Guidance 

10. Letter CMEL9170 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 this letter checked.



Line manager note: For more information refer to [Business Control System Checks](#).



CMEL9170 is an off system letter. You can't send it to JR and litigation teams via the system, only by email or courier.

11. If the JR and litigation teams don't approve action for reduction, go to **step 30** and manually close the SR.
12. The JR and litigation teams may decide that more information is required. For more information refer to [Investigative Action](#). Once you have completed your investigation go from **step 13**.

Interim court hearing

13. 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.

- CMEL9170 - 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.

14. 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 **Hearings** tab on the system and whether an expert witness is attending.

15. Send letters to tell the receiving parent, paying parent and any other relevant parties that a hearing has been arranged.

- CMEL9178 – receiving parent
- CMEL9171 – paying parent
- CMEL9172 – Third party such as bank or accountant
- CMEL9175 – Interested party



If the owner of the asset is a friend or family member, they will not be set up as a **Third party** on the case but as **Other party**. To issue CMEL9172 to the other party you will need to complete the following:

- In the **Contacts** column of the activities, select the MVG button and remove the current third party contact
- Search for and add the other party contact
- Select **Ok**, this will pull through the address and contact details of the other party onto the letter

16. Set a **Wait** period pending the contracted solicitor providing the result of the interim court hearing.
17. Call the sheriffs officer for an update if no response is received after the wait period has elapsed. Set a further **Wait** period if necessary.
18. Select **AFR Not Granted** in the activity plan if the order for reduction is not granted. Send letter CMEL9176 to the receiving parent and go to **step 28** to record costs and manually close the SR.
- If speaking to the receiving parent at this stage, explain to them that the action for reduction was not granted, and tell them what further action you will consider to collect the paying parent's debt.
19. Select **AFR Continued/Sisted** from the activity plan if this reflects the sheriff court/court of session decision. For more information refer to [Investigative Action](#).
20. Select **AFR Granted** if the order for reduction is granted. The CMS system will generate the next Activity Plan at this point. Go to **step 21**.
21. Call the sheriffs officer and ask them to serve notice of the action for reduction on the paying parent. Set a **Wait** period of 28 days to allow a response to be received from the sheriff officer, and to monitor compliance with the order.
22. Call the sheriffs officer for an update if no response is received after the wait period has elapsed. Set a further **Wait** period if necessary.
23. The sheriff court/court of session may issue a consequential direction that the action for reduction is dependant upon a liability order being granted. The action for reduction may be dependant on other preparatory enforcement action. For more information refer to [Enforcement Action - Consider \(Scotland\)](#). For more information refer to Policy, Law and Decision Making Guidance

Monitor compliance

24. If the paying parent does not breach the order and a variation has not been applied for, the process is complete. Go to **step 28** to record costs and manually close the SR.
25.  If you decide to apply for a variation on the action for reduction, update the CMEL9170 with the new details and send it to the contracted solicitors.
-  The paying parent or CMG may apply for a variation against the action for reduction. If the paying parent applies for a variation directly to the court, the contracted solicitor will advise the CMG of the outcome.
26.  Select **AFR not granted** in the **Outcome Of Final Court Hearing** field of the activity plan if the action for reduction is not granted. Send CMEL9176 to the receiving parent and go to **step 28** to record costs and manually close the SR.
27.  Select **AFR Granted** in the **Outcome Of Final Court Hearing** field of the Activity Plan if the action for reduction is granted. Send letters to notify the relevant parties:
 - CMEL9177 – receiving parent
 - CMEL9173 – paying parent
 - CMEL9174 – Third party such as bank or accountant
-  If the owner of the asset is a friend or family member, they will not be set up as a **Third party** on the case but as **Other party**. To issue CMEL9174 to the other party you will need to complete the following:
 - In the **Contacts** column of the activities, select the MVG button and remove the current third party contact
 - Search for and add the other party contact
 - Select **Ok**, this will pull through the address and contact details of the other party onto the letter

Apply costs

28. Access the **Costs** applet and input any costs associated with the action for reduction.
-  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](#).
29. Update the activity plan to confirm that you've sent a letter to the receiving parent to notify them of the outcome.
30. To complete the process manually close the work item by updating the SR as follows:
 - **Status = Closed**
 - **Sub Status = Completed**

CMEL9170 Send case summary to sols/litigation team for action for reduction

(Off system letter)
Record the case reference number in part 4.
Record the liabilities in part 5.
Record the case history details in part 6.
Record additional information in part 7.
Record the enforcement action in part 8.
Record the account details in part 9.
Once completed review the letter to ensure the correct information is provided.

CMEL9171 Action update - We have applied to the court to reverse your property

Notify paying parent of action for reduction hearing
Under the heading 'We have applied to the court to reverse your property transaction' record the name of the court in the first free text box.
Record the details of the asset in the second free text box.
Record the address of the court in the third free text box.
Once completed review the letter to ensure the correct information is provided.

CMEL9172 Action for reduction

Notify third party of action for reduction hearing
Under the heading 'Action for reduction' complete the following:
Record the details of the asset in the relevant free text box.
Record the address of the court in the relevant free text box.
Once completed review the letter to ensure the correct information is provided.

CMEL9173 Action update...your property is being transferred back to you

Tell paying parent Action for Reduction is granted
Under the heading "Action for Reduction granted" record the name of the court in the free text box.
Record the details of the relevant asset in the free text box.
Record the details of the court judgement in the free text box.
Once completed review the letter to ensure the correct information is provided.

CMEL9174 Action for reduction granted

Notify third party that Action for Reduction granted.
 Under the heading 'Action for Reduction outcome' record the details of the asset in the free text box.
 Under the heading "What this means for you" record the name of the court in the first free text box and the court's judgement in the second free text box.
 Once completed review the letter to ensure the correct information is provided.

CMEL9175 Action for reduction

Notify interested party of Action for reduction.
 Under the heading "Action for reduction" record the asset details in the free text box.
 Once completed review the letter to ensure the correct information is provided.

CMEL9176 Your child maintenance update – action for reduction not granted

Tell the receiving parent that the action for reduction has not been granted.
 All fields in this letter are system generated, no manual intervention is required.

CMEL9177 Your child maintenance update – action for reduction granted

Tell receiving parent that action for reduction hearing resulted in it being granted.
 All fields in this letter are system generated, no manual intervention is required.

CMEL9178 Your child maintenance update – action for reduction

Tell receiving parent that we are applying for an action for reduction.
 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](#)

[Letters outbound - contingency summary](#)

[Terminology Changes](#)

Who would serve/issue the notice of Action of Reduction on the paying parent?

Sheriff Officers would action these.

CMEL9170 Send case summary to sols/litigation team for action for reduction

(Off system letter)

Record the case reference number in part 4.

Record the liabilities in part 5.

Record the case history details in part 6.

Record additional information in part 7.

Record the enforcement action in part 8.

Record the account details in part 9.

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

CMEL9171 Action update - We have applied to the court to reverse your property

Notify paying parent of action for reduction hearing

Under the heading 'We have applied to the court to reverse your property transaction' record the name of the court in the first free text box.

Record the details of the asset in the second free text box.

Record the address of the court in the third free text box.

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

CMEL9172 Action for reduction

Notify third party of action for reduction hearing

Under the heading 'Action for reduction' complete the following:

Record the details of the asset in the relevant free text box.

Record the address of the court in the relevant free text box.

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

CMEL9173 Action update...your property is being transferred back to you

Tell paying parent Action for Reduction is granted

Under the heading "Action for Reduction granted" record the name of the court in the free text box.
Record the details of the relevant asset in the free text box.
Record the details of the court judgement in the free text box.
Once completed review the letter to ensure the correct information is provided.

CMEL9174 Action for reduction granted

Notify third party that Action for Reduction granted.
Under the heading 'Action for Reduction outcome' record the details of the asset in the free text box.
Under the heading "What this means for you" record the name of the court in the first free text box and the court's judgement in the second free text box.
Once completed review the letter to ensure the correct information is provided.

CMEL9175 Action for reduction

Notify interested party of Action for reduction.
Under the heading "Action for reduction" record the asset details in the free text box.
Once completed review the letter to ensure the correct information is provided.

CMEL9176 Your child maintenance update – action for reduction not granted

Tell the receiving parent that the action for reduction has not been granted.
All fields in this letter are system generated, no manual intervention is required.

CMEL9177 Your child maintenance update – action for reduction granted

Tell receiving parent that action for reduction hearing resulted in it being granted.
All fields in this letter are system generated, no manual intervention is required.

CMEL9178 Your child maintenance update – action for reduction

Tell receiving parent that we are applying for an action for reduction.
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](#)

[Letters outbound - contingency summary](#)

[Terminology Changes](#)

[Who would serve/issue the notice of Action of Reduction on the paying parent?](#)

Sheriff Officers would action these.