



Sanctions (Scotland)

When enforcement action is required to recover child maintenance arrears, the child maintenance group (CMG) will apply for a liability order (LO) which will enable a range of enforcement actions to be carried out. For more information refer to [Enforcement Action - Consider \(Scotland\)](#).

The purpose of this activity is for a case manager to apply for sanctions to be imposed. Team leader authorisation is also included in this activity.

Sanctions are powers available to the CMG to encourage a paying parent to pay. The Sheriff court is responsible for imposing sanctions.



All sanctions referrals must be referred to the Financial Investigation Unit (FIU) for action.

When every possible means of recovery has been exhausted and where there is evidence of wilful refusal or culpable neglect, the following sanctions can be imposed:

- Disqualification from holding or obtaining a driving licence
- Commitment to prison

Before considering sanctions action the paying parent should have at least £1,000 of outstanding debt.

The case manager will start the process by preparing the commitment file and requesting team leader authorisation.

The case manager will send the commitment file to the contracted solicitor who will check it for accuracy. Once they are satisfied that the writ is accurate and complete the solicitor will make the application and present the case to the court. The case manager will monitor progress of legal proceedings until the court makes a decision.

The aim of this process is to secure full payment of the arrears on the application and expenses awarded by the court.

When a decision is made in favour of the CMG, the Sheriff may grant a warrant of commitment or order for disqualification. In many cases the Sheriff will sist the case conditionally upon the Paying Parent complying with the court. In this situation, court action is stopped on the condition that the paying parent pays the arrears by an agreed date, or complies with any other condition imposed by the Sheriff.

When the paying parent has paid all of the arrears and expenses, the case manager will instruct the solicitors to recall the sist and apply for the case to be dismissed.

If the paying parent fails to comply with the payment conditions, the case manager will consider referring the case back to the solicitor to apply for the sist to be recalled and the matter brought back to court. For more information refer to [Default \(Scotland\)](#).



Where the paying parent fails to comply with an order, the case manager will need to confirm whether the ruling is older than two years, where this is the case, a determination needs to be made as to whether any consideration on the paying parents ability to pay was made by the court. If no consideration was made then the sanction must be applied for again.

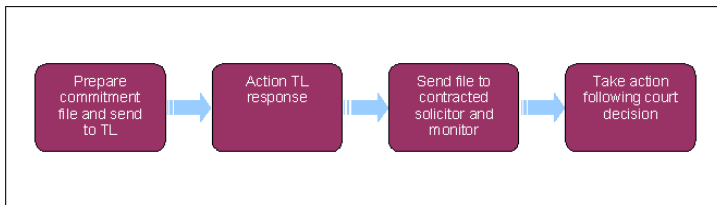


If a case is identified for Segment 5 and Commitment action is on-going on a CSA system, then the compliance opportunity will not be offered. For further information refer to [Enforcement Transition Part 2 \(Slide 13\)](#) from [Fundamentals](#).



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: [Sanctions - Scotland](#)

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.





Prepare commitment file



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. If you haven't recently checked the paying parent's address, check this now to ensure that you are applying for sanctions within the appropriate jurisdiction:
 - If the paying parent has moved out of Scotland but within the United Kingdom (UK) – refer to [Sanctions \(E, W and NI\)](#)
 - If the paying parent has moved out of the UK jurisdiction may change. For more information refer to [Case Routing - Enforcement](#).
2. Create the following service request (SR):
 - **Process = Enforcement**
 - **Area = Take enforcement action**
 - **Sub Area = Sanctions Scot**
3. Link the SR to the case and update the SR **Status** to in progress and the CMS System will generate an activity plan.
4. Update the activity plan to confirm that you have completed the following validation steps when deciding if sanctions action is appropriate:
 - Check the arrears balance
 - Consider the welfare of the child or children
 - Record evidence of wilful refusal/culpable neglect
 - Add/Validate liability order (LO)

For more information refer to the Law and Policy Handbook 


5. Check the **Financial Accounts** view to confirm the arrears balance.
 -  Arrears at this point will be the sum of Liability Order, costs and charges, minus any payments made against them by the paying parent.
6. Consider the welfare of the child/ren and record your decision in the **Reasons** field, detailing whether sanctions action is appropriate. Include any information to support your decision.
 -  The decision to apply sanctions is a discretionary decision and must be recorded in the **Reason** field of the activity plan, 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 
7. Check the **Instances view** for any evidence of wilful refusal/culpable neglect. For more information refer to [Wilful Refusal/Culpable Neglect](#).
8. Associate the relevant LO to the **Sanctions Scot** SR. Go to the **Enforcement Orders** view to see any LOs granted against the paying parent. To associate the LO, select **Add**. Then select the LO with the debt that needs to be collected.
 -  If you're collecting debt on more than one LO, select the relevant LOs from the list.
9. Update **Enforce Forms** once you've completed the validation steps. Select **Update Form/Document** to view the form. Then update the following fields:
 - **Arrears Balance Against LO** – the remaining balance on the LO
 - **Sum Applied For** – the total amount of debt including costs if you decide to collect these

10. Once you have completed the standard validations in **Steps 1-9** you must consider whether it is appropriate to continue with Sanctions action against the paying parent. All other actions such as Attachment, Arrestment, Inhibition, etc should be considered before applying for Sanctions on all cases for each period of LO debt.



Do not select **Exit** or **Continue** in the activity plan at this point, pending line manager approval.




Before considering sanctions action the paying parent should have at least £1,000 of outstanding debt. For more information on sanctions please refer to the Policy, Law and Decision Making Guidance 

11. Generate Commitment and Disqualification from holding a Driving Licence CDDL Suitability Proforma CMEL9295S. This is an off-line form - Please refer to the procedure for [Letters \(Outbound\) - Off System](#) for further detail.
12. Once you have completed the CDDL Suitability Proforma CMEL9295S and decided whether the Paying Parent meets the criteria for this action, Update the SR **Status** to **Pending Approval** and the **Sub Status** to **Pending Approval - TL**. Select **CNTRL+S** to send the check to your line manager's inbox.
13. Pass a hard copy of the CDDL Suitability proforma to your line manager for checking.

Team Leader Action

14. Go to your inbox and open the **Sanctions Scot** SR created by the case manager. View the case details and notes and decide whether:

- The criteria for sanctions have been met
- You need any more information to make a decision



For more information on sanctions please refer to the Policy, Law and Decision Making Guidance 

15. Update the **More Info Action** button to confirm whether you are authorising the next stage of sanctions action. If you are not authorising it, record your reasons in the **Comments** field. Explain what information you need or if sanctions are not appropriate. Return the completed hard copy of the CDDL Suitability Proforma CMEL9295S to the owning case manager.






For more information about team leader checking, refer to the procedure for [Business Control System Checks](#) in related items

Case manager action

16. If your line manager has approved the next step of CDDL action, update the activity plan with **Continue**, refer the case to FIU to investigate the paying parent's ability to pay and go to **Step 17**. If they have rejected the action update the activity plan to **Exit** and close the **Sanctions Scot SR** using the amendments functionality. Refer to the procedure for [Case routing - Enforcement](#) for further detail on making an amendment. Scan a copy of the CDDL Suitability Proforma into the system. Refer to the procedure for [Scanning - Local](#) for further guidance
17.  Update the **Status to In Progress**. From the activity plan, select the activity **Send letter of intent for pending Escalation to Court**, then send letter CMEL9121 along with the Money In/Money Out offline form CMEL9294 to the paying parent to warn them that the case is being referred for sanctions. Record the issue of the Money In/Money Out Form in **SR Notes**, and scan a copy into the system. Refer to the procedure for [Scanning - Local](#) for further guidance.
-  The paying parent is not required to return the Money in/Money Out form, but it gives them an opportunity to provide evidence of their financial circumstances that the Child Maintenance Group may not previously have been aware of.
18. Select **Update Form/Document** to update **Enforce Forms** and update **NRP letters issued Dt**, then set a **Wait** period in the SR for **14 days** and change the SR **Status to Wait** and the **Sub Status to Issue Warning Letter**
19. On the due date, change the SR **Status to In Progress**. Check if the paying parent has responded and take the relevant action:
- Arrears paid in full or arrears agreement made – go to **Step 20**
 - If the Paying Parent returns the Money in/Money out form - go to **Step 21**
 - No satisfactory response from the paying parent – change the SR **Status to In Progress** and go to **Step 22**
20. If the paying parent makes a satisfactory arrears agreement or pays the arrears on the LO in full, close the **Sanctions Scot** SR after recording your reason in the **Notes**. Then decide if enforcement action is still required. For more information refer to [Enforcement Action - Consider \(Scotland\)](#).




When attempting to reach an agreement with the paying parent at this stage, explain to them the consequences of not doing so, and that they may be committed to prison or have their driving licence removed. Stress that commitment is not the CMG's preferred course of action.

21.  If the Paying Parent returns the Money In / Money Out form CMEL9294 you will need to assess the evidence they have provided, and make a decision on whether to proceed with CDDL action, based on their ability to pay. Call the paying Parent to discuss the contents of the form, and their current circumstances, this also presents the opportunity to make an arrears agreement. In some cases you may identify a change of the paying parent's circumstances as a result of the information in the Money in/Money Out form. If this is the case refer to the procedure for [Maintain case details - overview](#) for further guidance, and to select the relevant procedure to guide you through the change of circumstances. Refer to the Policy, Law and Decision Making Guidance for further information about a change of circumstances in this situation. 
22. Record your decision on form CMSF5572. This is an off system form. For more information refer to [Letters \(Outbound\) - Off System](#).
23. Discuss the case with your line manager prior to making a decision whether it is appropriate to proceed. Refer to the Policy, Law and Decision Making Guidance for further information on the criteria for Sanctions, and on assessing and completing the **Decision on PP's Ability to Pay** proforma .
24. Generate a further ad hoc Team leader authorisation check within the **Initial preparation** activity plan. Select **CNTRL+S** to send the check to your line manager's inbox. Pass the completed hard copy of the **Decision on PP's Ability to Pay** proforma to your line manager.

Team Leader Action

25. Go to your inbox and open the **Sanctions Scot** SR created by the case manager. View the case details and notes and decide:
- Consider if the criteria for sanctions have been met
 - Whether all the evidence provided by the Paying parent has been considered
 - Review the **Decision on PP's Ability to Pay** proforma
 - Whether you need any more information to make a decision



For more information on sanctions please refer to the Policy, Law and Decision Making Guidance 

26. Update the Activity Plan to confirm whether you are authorising the next stage of sanctions action. If you are not authorising it, record your reasons in the **SR Notes** field. Explain what information you need or if sanctions are not appropriate.






For more information about team leader checking, refer to the procedure for [Business Control System Checks](#)

Case manager action

27. If your line manager has approved the next step of CDDL action, create an ad hoc activity line and send off system letter CMEL9291 to the Paying Parent and go to **Step 29**. CMEL9291 is an off-line letter - refer to the procedure for [Letters \(Outbound\) - Off System](#).
28.  If your line manager has rejected the action send letter CMEL9292 to the Paying Parent and close the **Sanctions Scot SR** using the amendments functionality. CMEL9292 is an off-line letter - refer to the procedure for [Letters \(Outbound\) - Off System](#). Refer also to the procedure for [Case routing - Enforcement](#) for further detail on making an amendment. Scan a copy of the **Decision on PP's Ability to Pay Proforma** into the system. Refer to the procedure for [Scanning - Local](#).
-  If you identified a potential change of the Paying Parent's circumstances when reviewing their Money In / Money Out form, aim to complete this action within 28 days. It is important that this is completed prior to the court hearing date.

Continue with Action

29.  Create the sanctions court file if the paying parent doesn't respond to the warning letter. Complete the sanctions referral form CMEL9110. This is an off-line letter - refer to the procedure for [Letters \(Outbound\) - Off System](#). Add the contracted solicitor to the SR as a **Third Party** at this point.
30.  Complete the summary application CMEL9117 and submission form CMEL9120. These are off-line letters - refer to the procedure for [Letters \(Outbound\) - Off System](#). Associate them with the CMEL9110 along with the relevant documents:
- Originals of all Diligence papers
 - Original Sheriff Officer reports
 - Copy of Commitment Warning Letter CMEL9121 issued to paying parent
 - Face to face/compliance inspector interview reports
 - All evidence of wilful refusal/culpable neglect
 - Screen prints from CRA Details tab - These prints will also need to be scanned and attached to the case. For further guidance refer to [Scanning - Local](#) and [CRA interface overview](#)
 - A copy of the Paying Parent money in/money out form
 - A copy of the authorised Decision on PP Ability to Pay proforma
 - A copy of CMEL9291 proceeding letter to paying parent
 - A copy of the authorised CDDL suitability proforma CMEL9295S
 - Copies of all correspondence from paying parent or their representative regarding enforcement action and the replies
31. Select **CTRL+S** and the CMS System will generate the activity plan for **Authorise Check San Scot**.
32. Select the Activity Plan Outcome **Initiate**. Change the SR **Status** to **Pending Approval** and **Sub Status** to **Pending Approval - TL**. The system will send an authorisation request to your team leader. When you receive a response, go to **step 33**.
-  To prevent the casegroup moving segments whilst you are awaiting TL authorisation, set the **Lock Assignment Flag**. For more information on how to do this refer to [BOM - Segments Summary](#).

Authorise court file

Team leader action

33. Go to your Inbox and open the approval request created by the case manager. View the case details and Notes and decide whether:
- The criteria for sanctions have been met
 - You need any more information to make a decision

Refer to **steps 1 - 9** of this procedure and the Policy, Law and Decision Making Guidance for more information 

34. Update the approval request to confirm whether you are authorising sanctions action. If you are not authorising it, record your reasons in the Notes. Explain what information you need or if sanctions are not appropriate.

Action team leader response

Case manager action

35. Check the **Sanctions Scot** SR to for your team leader's response.

- Sanctions not authorised – go to **step 36**
 - Sanctions authorised – update **Sanction File Approved** and go to **step 37**
36. Complete the action requested by your team leader if they have not authorised the sanctions action:
- More information required – gather the information and resubmit the case for authorisation
 - Sanctions not appropriate – update **Sanction File Approved, Not Apprvd Reason** and close the SR to complete this process
37.  Call the receiving parent when your team leader has authorised sanctions. Explain that the CMG is applying for sanctions against the paying parent and manage the receiving parent's expectations regarding the outcome and timescales involved.
-  You may already have spoken to the Receiving Parent earlier in the process and discussed sanctions, in which case this call will be a courtesy to update them.
38.  If the call is unsuccessful, send CMEL9114 to the receiving parent to tell them that the CMG is applying for sanctions against the paying parent.
-  Once the CMEL9114 has been issued to the Receiving Parent, Set a **Wait** period within the **Sanctions Scot SR** for 10 days. This will allow time for the Receiving Parent to decide as to whether they wish the Sanction action to be taken.

Send commitment file


39. Send the commitment file to the contracted solicitor once your team leader has approved the sanctions referral. Select **Update form/document** to access the **Enforce form** and record the date of issue in **File Ref. To Sol. Date**. The solicitor will review the commitment file and if they considered proceedings may not be appropriate they will contact the CMG to discuss further or request additional information.
40. On the due date, change the SR status to in progress. Check inbound correspondence on the case to see if the solicitor has responded. If you haven't received a response, call the solicitor to confirm that they are satisfied with the contents of the commitment file and are able to instigate the action.
- Case rejected by solicitor – Go to **step 41**
 - Case accepted by solicitor – go to **step 44**
41. If the solicitor has rejected the case, record this in **Case Appr By Solicitor** and **Solicitor Rej Reason**. The solicitor will tell you if you can re-refer the case to them e.g. when they need you to take some corrective action.
42. Take the relevant action depending on the solicitor's response:
- Re-refer the case: restart this process from **step 10** and complete the corrective action required
 - Don't re-refer the case: close the **sanctions Scot SR** now to complete this process
43. Consider other enforcement action if the case is not suitable for prosecution. For more information refer to **Enforcement Action - Consider (Scotland)**
44. If the solicitor has accepted the case, select **Update form/document** to access the **Enforce form** and record this in **Case Appr By Solicitor**. Set a **Wait** period for six weeks to allow time for the solicitor to arrange the hearings. Change the SR **Sub status** to **Awaiting hearing date**.

Monitor case

45. Monitor the case for an update from the solicitor. When the solicitor confirms that the preliminary hearing has been arranged, record the **Court hearing date** and **Court hearing type** in **Hearing Records** and set a **Wait** period in the SR for seven days after the hearing, with a **Sub status** of **Awaiting outcome**.
46. You can cancel or pause the enforcement action at any stage during this process if changes to the case require this. For more information refer to **Case Routing - Enforcement**. Consider doing this following:
- Payments from the paying parent
 - An arrears agreement made with the paying parent
 - Changes to the arrears balance due to a change of circumstances, revision or appeal
 - Other exceptional circumstances such as death of a client, change to benefit status, reconciliation – the list is not exhaustive.
47. If you're cancelling or pausing enforcement action, record the reason in the **Enforcement Amendments** view. Don't use **Pause/Cancel Reason** in **Enforce Forms** as this field isn't in use.
48. Notify the contracted solicitor if there are any changes that affect the legal proceedings.
49. If you haven't received a response from the solicitor, call them for an update. If an outcome hasn't been reached, discuss the timescales of any ongoing action and set the appropriate wait period in the SR.
50. Repeat **Steps 45-49** if any further hearings are arranged.
51. When the solicitor confirms that the proof hearing has been arranged, record the hearing details in the **Court hearing date** and **Court hearing type fields** of the **Hearing Records** and set a **Wait** period in the SR for seven days after the hearing.

52. If the solicitor tells you that an expert witness is needed, record this in the **Rep required** field of the **Hearing Records** and go to **Step 54**.
53. Monitor the case for the proof hearing outcome. If you haven't received a response from the solicitor, call them for an update. If an outcome hasn't been reached, discuss the timescales of any ongoing action and set the appropriate **wait** period in the SR. When you receive the final outcome, go to **Step 59**.

Prepare contact witness for proof hearing

54. The Child Maintenance Group (CMG) may have to provide an expert witness from enforcement to attend the proof hearing along with the contracted or agent Solicitor.
55. The expert witness will speak about what actions have been taken to recover the debt, prior to the raising of the Commitment to Prison or Order of Disqualification action. For more information refer to the Policy, Law and Decision Making Guidance.  When the solicitor tells you that an expert witness is needed for the proof hearing, find a suitable case manager who can attend.
56. Contact the person you need to attend the hearing. Explain the current action on the case and the date of the next hearing. Ask the person if they're able to attend and arrange for the relevant case papers to be sent to them prior to the hearing.
57. Record the name of the expert witness in the **Notes** and update **Hearing Records** to show that an expert witness is attending.
58. Once you've prepared the witness for the hearing, go back to **step 53** and monitor the case for an outcome.

Take action following final outcome

59. Set SR **Status** to **In Progress** when the solicitor contacts you with the final outcome.
60. Review the case file and check what action you need to take next.
61. Select Update form/document to access the Enforce form and record the final outcome in the sanctions form by updating the relevant fields:
 - **Final Outcome**
 - **Sanc Hearing Outcome** - use when **Final Outcome** is **Granted** or **Payt Conditions Set**
 - **Final Outcome Date**
 - **Length Of Sentence** - use when **Sanc Hearing Outcome** is **granted imm disq from driving** OR **grntd immdt commit sentence**
 - **Summons Issued Date**
 - **Type Of Warrant**
 - **Warrant Exec Date**
62. If there are any appeals, create a new record in the **Appeals** view. Don't record appeals in **Enforce Form**.
63. Update the activity plan to confirm whether the court has set payment conditions:
 - Payment conditions set – go to **step 64**
 - No payment conditions set – go to **step 69**
64. Set up the court ordered schedule by selecting **Yes** in the **Has Court Imposed Schedule** line of the activity plan. The CMS System will generate and take you to a child SR with the values:
 - **Process = Arrears**
 - **Area = Arrears management**
 - **Sub Area = Action Missed Payment**
65. Input the Court enforced schedule details into this SR, then go to the **Create SR** Drop down and select **Schedule Only**. The CMS System will generate a further SR with the values
 - **Process = Perform Calculation**
 - **Area = Payment plan only**
 - **Sub Area = Arrears negotiation**


For more information on creating this SR refer to the procedure for [Case routing - Enforcement](#).




The schedule you set up will include the payment conditions set by the court, plus any ongoing maintenance and arrears the paying parent is liable to pay. For more information on completing this SR, refer to [Arrears Negotiation and Missed Payments](#).



If the Sheriff sets payment conditions it will list the case on the condition that the paying parent makes the payments.

66. Select the **Show More** button. This will display further options within the SR. Tick the box for **Court Enforced Schedule**.
67.  Once you've set up the schedule, complete CMEL9268 and send it to the paying parent. This letter is not held within this SR. Please refer to the procedure for [Letters Outbound - Off System](#) for further guidance


 The CMEL9268 will explain the payment conditions element of the promise to pay schedule and the need to quote the LO reference number. The paying parent will need to set up a separate method of payment from (MOPF) for the order to pay in order to quote this number.

68. Record the date of the final payment due in **Sanc Order End Dt**.



69. If the Sheriff hasn't set payment conditions and sanctions have been granted, contact the contracted solicitor immediately if the paying parent pays the arrears. For more information refer to [Case Routing - Enforcement](#).

70. Apply any expenses to the case that have been awarded by the court. If there are no expenses to apply, select **Not Applied** next to **Cost Applied** in the activity plan. For more information refer to [Apply costs](#).


 The system refers to expenses as costs.

 Don't close the SR before completing this action as this will prevent you from completing the activity plan.

71. If costs are awarded at a later date, apply them to the case once they are awarded. You may need to take this action if the solicitor requests taxed expenses.


72.   Call the receiving parent and send one of the following letters to explain the final outcome:

- CMEL9113 – where a sentence is granted or suspended
- CMEL9112 – where an order to disqualify or warrant of commitment has not been granted

 When speaking to the receiving parent, consider that they may be frustrated if this action has failed. Explain to them the further powers that the CMG can use recover the paying parent debt.

73. Record details of the action you have taken in the **Notes** and **Close** the SR.

74. Consider other enforcement options when payment of the arrears has not been secured. For more information refer to [Enforcement Action - Consider \(Scotland\)](#) and [Default \(Scotland\)](#).

 Where the paying parent fails to comply with an order, the case manager will need to confirm whether the ruling is older than two years, where this is the case, a determination needs to be made as to whether any consideration on the paying parents ability to pay was made by the court. If no consideration was made then the sanction must be applied for again.

CMSF5572 Decision on PP's Ability To Pay Proforma

This is an off line internal form

CMEL9110 Instruction... submission for solicitors... commitment/disqualification...

Instruction and submission for solicitors for commitment/disqualification proceedings.

Under the heading "Submission for committal to prison or disqualification from holding or obtaining a driving license", record the RFA number in the free text box.

Under the heading "Application for committal to prison/disqualification from holding or obtaining a driving licence" record the name of the court in the free text box.

Under the heading "Minute (A)", record the name of the court in the free text box.

In the first paragraph under the heading "POLICY STATEMENT", record the grounds for committal/disqualification in the free text box.

In the second paragraph under the heading "POLICY STATEMENT", record the full liability order (LO) amount, minus payments, in the first free text box. Record the post LO expenses in the second free text box.

Under the heading "WELFARE OF THE CHILD" record your welfare of the child decision in the free text box.

Under the heading "- V - paying parent", record the RFA number in the free text box.

Under the heading "WEEKLY ASSESSMENTS/CALCULATIONS", record the maintenance calculations in the free text box.

Under the heading "ENFORCEMENT SUMMARY", record the action from LO granted through all diligence actions in the free text box.

Under the heading "CONTACTS SUMMARY", record in the free text box details of all telephone, written and face to face contact with paying parent that has not been included in the above enforcement summary.

Under the heading "ADDITIONAL INFORMATION", record any additional information you have in the free text box.

Under the heading "AMOUNT OUTSTANDING", record in the free text box the total payments received or unsuccessful arrestment.

Under the heading "TOTAL UNPAID MAINTENANCE", record in the free text box the total amount due, which includes total expenses, LO expenses, charge for payment, arrestment and inhibition.

Under the heading "ABILITY TO PAY", record your decision in the free text box.

Under the heading "EVIDENCE OF WILFUL REFUSAL TO PAY/CULPABLE NEGLECT", record in the free text box the evidence of wilful refusal and culpable neglect. Note: Include hard copies if appropriate.

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

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

CMEL9112 Your child maintenance update – warrant/order not granted

Tell receiving parent that warrant for commitment /disqualification order not granted.

Under the heading 'What this means for you' select one of the following optional paragraphs:

- Paragraph TM_09611_E "We might be able to ask the court to consider this action again, or we might be able to take a different action"
- Paragraph TM_09612_E "We have asked the court to consider this action as many times as we can. However we may be able to take a different action"
- Paragraph TM_09613_E "We have asked the court to consider this action as many times as we can. We might not be able to take any more action at the moment because we have tried everything that we can"

Under the optional paragraph, record in the free text box any additional information specific to the case, including possible action regarding other LOs.

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

CMEL9113 Your child maintenance update - court decision (sanctions)

Inform receiving parent that we have a warrant for commitment/order of disqualification/ suspended warrant for commitment/suspended order of disqualification

Select the following optional paragraph

- Paragraph **TM_320132_E** "The court decided to give a warrant for commitment."

Under the heading 'What this means for you' select one of the following optional paragraphs:

- Paragraph **TM_30133_E** "The court decided to grant an order of disqualification."
- Paragraph **TM_30134_E** "The court decided to grant a suspended warrant of commitment and have set conditions for..."
- Paragraph **TM_30135_E** "The court decided to grant a suspended order of disqualification and have set conditions for..."

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

CMEL9114 Your child maintenance update – committal or disqualification

Tell receiving parent that we plan to apply for disqualification or committal.

All fields in this letter are system generated, no manual intervention is required.

CMEL9117 Summary application for committal To Solicitor

Summary application to Sheriff for committal.

Complete the free text boxes and optional paragraphs highlighted:

SHERIFFDOM OF **<free text to enter SHERIFFDOM>** AT **<free text to enter COURT>**

SUMMARY APPLICATION UNDER SECTION 39A

OF THE CHILD SUPPORT ACT 1991(C48)

in causa

{legal entity}

{Service address}

PURSUER

against **<free text to enter paying parent's name>**, residing at **<free text to enter paying parent's Address inc. Post Code>** If using paying parent's former address use **//<free text to enter and formerly residing at paying parent's former address if applicable>//**

DEFENDER

The pursuer craves the Court either:

(a)To issue a Warrant committing the Defender to prison in terms of Section 39A(2)(a) of the Child Support Act 1991 or alternatively

(b)To order that the Defender be disqualified from holding or obtaining a Driving Licence in terms of Section 39A(2)(b) of the Child Support Act 1991.

CONDESCENDENCE

This is an application in terms of Section 39A(1) of the Child Support Act 1991, as amended, (hereinafter referred to as "the Act"). It craves either the issue of a warrant committing the Defender to prison or alternatively an Order for the Defender to be disqualified from holding or obtaining a Driving Licence, being a licence to drive a motor vehicle granted under part III of the Road Traffic Act 1988. In terms of Section 39A (2) of the Act, it is for the Court to determine which of these alternatives is appropriate, if either. The maximum period of imprisonment that may

be imposed is six weeks. The maximum period of disqualification is two years. The issue of a Warrant to Imprison may be postponed or the operation of a Disqualification Order suspended, until such time and on such conditions as the court thinks just.

2.The parties are as designed in the instance. The Defender resides at **<free text to enter address paying parent is currently residing at, also detail former address if necessary>**. The Defender has been resident there for more than three months prior to the raising of this action. The Defender is domiciled there. This Court accordingly has jurisdiction. There is no agreement to prorogate jurisdiction over the subject matter of the present cause to any other court. There are no proceedings pending elsewhere rising out of the same cause of action between the parties hereto.

3.The Defender is a liable person in terms of the Act. The Defender **<free text to enter either was or is currently>** a liable person in terms of the Act, required to make payments of £**<free text to enter amount based on the most recent assessment/calculation or Nil>** per week of Child Support Maintenance pursuant to **<free text to enter either a full maintenance assessment/an Interim Maintenance Assessment/a maintenance calculation/a default maintenance decision effective from <free text to enter date of most recent assessment/calculation>**. The Defender **<free text to enter was or has been>** liable to make payments of Child Support Maintenance since **<free text to enter first calculated assessment>** **<free text to enter until last date of liability>** when the case was closed. The Defender is still a liable person in terms of the Child Support Act 1991 but has failed to make full payment of the sums he is liable to pay. The Defender made an agreement with the Pursuer on **<free text to enter date of agreement>** with regard to their Child Support Maintenance Arrears. The Defender agreed to make a lump sum payment of **<free text to enter amount of lump sum arrears payment>** and thereafter pay **<free text to enter amount of arrears payment>** per **<free text to enter either weekly/two weekly/four weekly/monthly>** towards their arrears whilst their **<free text to enter Interim Maintenance Assessment or Default Maintenance Decision>** was converted. The conversion of the **<free text to enter Interim Maintenance Assessment or Default Maintenance Decision>** was dependant on the Defender supplying financial information to the Pursuer.

Following the agreement made on **<free text to enter date of agreement>**, the Defender did not pay **<free text to enter either an amount of agreed lump sum>** lump sum or **<free text to enter amount of agreed arrears payment>** per **<free text to enter frequency>** to the Pursuer **<free text to enter nor did he provide financial information to allow their Interim Maintenance Assessment or Default Maintenance Decision to be converted>**. The Defender entered in to another Agreement with the Pursuer on the **<free text to enter date of agreement>** to make payment of **<free text to enter amount of payment>** per **<free text to enter frequency either weekly/two weekly/four weekly/monthly>** towards their arrears of Child Support Maintenance. The Pursuer wrote to the Defender on **<free text to enter date of letter>** to confirm this Agreement.

Payments were received from the Defender to the Pursuer in execution of this Agreement. The payments received totalled **<free text to enter amount>** and these were allocated as follows **<free text to enter>** details of the amounts and to whom the payments were allocated] **OR** No payments were received from the Defender to the Pursuer in execution of this Agreement. **EITHER:** It is believed and averred that the Defender is **<free text to enter employed OR self employed OR: The Pursuer has no current knowledge as to the employment or otherwise of the Defender but the Defender has previously informed the Pursuer that he was employed>**.

EITHER: **<free text to enter It is believed and averred that the Defender is not currently in receipt of any state benefits. OR: It is believed and averred that the Defender is currently in receipt of state benefits <free text to enter type of benefit>**. **As at the date of raising this Summary Application, the Defender is not making any payments towards their Child Support Maintenance arrears to the Pursuer>**.

4.A Liability Order was made against the Defender at **<free text to enter name of Sheriff court>** Sheriff Court for payment of £ **<free text to enter amount of debt secured by liability order in words>** (£**<free text to enter amount of debt in figures>**) Sterling of Child Support Maintenance arrears, plus expenses of £**<free text to enter amount of expenses granted in words>** (£**<free text to amount of expenses in figures>**) Sterling as taxed on **<free text to enter date written as per example 24th May 1999>** ("the First Liability Order"). An extract of the Liability Order, issued on **<free text to enter date written as per example 24th May 1999>** shall be produced. The First Liability Order covers the period of Child Support Maintenance arrears from **<free text to enter date written as per example 24th May 1997 until 12th March 1999>**.

Use paragraph **TM_30053_E** if:

//the Pursuer has sought to recover the amount in respect of which the First Liability Order was made in terms of section 38 of the Act by service of a Charge for Payment and attempted **<free text to enter Arrestment, Attachment and registration of an Inhibition on date inhibition registered in registers of Scotland>**./.

Use paragraph **TM_30054_E** if:

//A Liability Order was made against the Defender at **<free text to enter name of Sheriff court>** Court for payment of £**<free text to enter amount of debt in figures>** Sterling of Child Support Maintenance arrears plus expenses as taxed on **<free text to enter date written as per example 24th May 1999>**. //

Use paragraph **TM_30055_E** if:

//An extract of the Second Liability Order issued on **<free text to enter date Liability Order extracted as per example 18th April 2002>** shall be produced. The Second Liability Order covers the period of Child Support Maintenance arrears from **<free text to enter date Liability Order covers shown as per example 13th March 1999 until 1st July 2001>**. Decree for taxed expenses in the amount of £**<free text to enter amount of expenses granted in figures>** was granted by **<free text to enter name of Sheriff Court>** Sheriff Court against the Defender on **<free text to enter date Liability Order granted written as per example 12th November 2003>**. A copy of the extract Decree for expenses dated **<free text to enter date extract Decree for expenses granted written as per example 27th November 2003>** shall be produced.//

Use paragraph **TM_30056_E** if:

//The Pursuer has sought to recover the sums due on the terms of the Second Liability Order by service of a Charge for Payment and attempted **<free text to enter Arrestment, Attachment and registration of an Inhibition on date on which the Inhibition was registered in Registers of Scotland>**./.

Use paragraph **TM_30057_E** if:

//A Liability Order was made against the Defender at **<free text to enter name of sheriff court>** Court for payment of £**<free text to enter amount of debt in figures>** Sterling of Child Support Maintenance arrears **<free text to enter plus expenses as taxed on date written as per example 24th May 1999>**. An extract of the Third Liability Order issued on **<free text to enter date Liability Order extracted as per example 18th April 2002>** shall be produced. The Third Liability Order covers the period of Child Support Maintenance arrears from **<free text to enter date Liability Order covers shown as per example 13th March 1999 until 1st July 2001>**. Decree for taxed expenses in the amount of £**<free text to enter amount of expenses granted in figures>** was granted by **<free text to enter name of Sheriff Court>** Sheriff Court against the Defender on **<free text to enter date Liability Order granted written as per example 12th November 2003>**. A copy of the extract Decree for expenses dated **<free text to enter date extract Decree for expenses granted**

written as per example 27th November 2003> shall be produced. The Pursuer has sought to recover the sums due on the terms of the Third Liability Order by service of a Charge for Payment and attempted **<free text to enter Arrestment, Attachment and registration of an Inhibition on date on which the Inhibition was registered in Registers of Scotland>**./.

Use paragraph **TM_30058_E** if:

//A Liability Order was made against the Defender at **<free text to enter name of Sheriff Court>** Court for payment of £**<free text to enter amount of debt in figures>** Sterling, of **Child Support Maintenance arrears plus expenses as taxed on <free text to enter date written as per example 13th May 1999>**. An extract of the Fourth Liability Order issued on **<free text to enter date Liability Order extracted as per example 18th April 2002>** shall be produced. //

Use paragraph **TM_30059_E** if:

//The Fourth Liability Order covers the period of Child Support Maintenance arrears from **<free text to enter date Liability Order covers shown as per example 13th March 1999 until 1st July 2001>**. Decree for taxed expenses in the amount of £**<free text to enter amount of expenses granted in figures>** was granted by **<free text to enter name of Sheriff Court>** Sheriff Court against the Defender on **<free text to enter date Liability Order granted written as per example 12th November 2003>**./.

Use paragraph **TM_30072_E** if:

//A copy of the extract Decree for expenses dated **<free text to enter date extract Decree for expenses granted written as per example 27th November 2003>** shall be produced.

The Pursuer has sought to recover the sums due on the terms of the Fourth Liability Order by service of a Charge for Payment and attempted **<free text to enter Arrestment, Attachment and registration of an Inhibition on date on which the Inhibition was registered in Registers of Scotland>**./.

Use paragraph **TM_30073_E** if:

//The Pursuer served further charges for payment in respects of the First and Second Liability Orders and Decree expenses on **<free text to enter date written as per example 24th May 1999>**. The Pursuer advised the Defender of its intention to raise the present Summary Application by letter dated **<free text to enter date warning letter issued written as per example 15th August 2005>** in respect of First and Second, Third and Fourth Liability Orders plus expenses.//

Use paragraph **TM_30074_E** if:

In addition, the Pursuer has incurred expenses of **<free text to enter amount of expenses in figures>** in carrying out diligence against the Defender in respect of Liability Orders. In taking the diligence actions this **<free text to enter did result in payment or did not result in payment>**. Accordingly, the total sum of **<free text to enter amount of debt and expenses granted by court and in carrying out diligences written as figures>** is unpaid as at the date of raising this Summary Application.

Use paragraph **TM_30075_E** to include:

<free text to enter Additional sums are unpaid in respect of maintenance periods subsequent to the Liability Order, but only the above amount is relevant for the purposes of this application if appropriate>./.

5.It is believed and averred that the Defender has, and has had, the means to make payment of the amount in respect of which the Liability Order was made. It is believed and averred that the Defender is **<free text to enter employed OR self-employed OR in receipt of benefit>**. The Defender has made **<free text to enter number of agreements>** agreement(s) with the Pursuer to make payment towards their arrears as condescended on above, but has failed to comply with **<free text to enter this or either>** agreement. The Defender has failed to make payment in respect thereof.

6.The Defender has been called on repeatedly to pay the amount due in terms of the said Liability Order but either wilfully refuses to do so or culpably neglects to make payment. The pursuer believes and avers that the Defender wilfully refuses or culpably neglects to pay. This application is accordingly necessary.

Plea in Law

1.The pursuer having sought to recover an amount under Section 38 of the Act, that amount remaining unpaid, and there being wilful refusal or culpable neglect to make payment on the part of the defender, either:

(a) The Court should issue a Warrant committing the Defender to prison as first craved;

or et separatim

(b)The Court should order the Defender to be disqualified from holding or obtaining a driving licence as second craved.

IN RESPECT WHEREOF

Solicitor:

Solicitor Address:

Ref:

Tel:

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

CMEL9120 Submission for committal or disqualification

Submit file to solicitor for committal/disqualification

Under the paying parent's address, record the court's name in the free text box.

Under the heading "Summons" record today's date and the court's name.

When a warrant of commitment has been postponed use the following options:

Under the paying parent's address, record the date or the final outcome of the original sanctions hearing.

Record the conditions of the postponement in the free text box.

Record the amount that the paying parent needs to pay to prevent further action in the free text box.

Record the name of the court in the free text box.

When an order of disqualification has been suspended use the following options:

Record the date the order was suspended, the conditions and the period of disqualification that was suspended in the corresponding free text boxes.

Record the name of the court, the date and time of the next hearing.

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

[CMEL9121 We will apply... disqualify you from driving or to send you to prison](#)

Paying parent sanctions warning letter

Under the heading "We will apply to court to disqualify you from driving or to send you to prison" record the amount of arrears that have built up since the LOs were granted.

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

[CMEL9295S CDDL Suitability proforma](#)

This is an offline internal form

[CMEL9294 Money In / Money Out form](#)

Off line form, sent to the Paying Parent prior to making a decision on proceeding with CDDL action.

[CMSF5572 - Decision making proforma](#)

Edit this page to modify your web part content.

[Admin Account - Add To](#)

[Apply Costs](#)

[Arrears Negotiation and Missed Payments](#)

[Attachment](#)

[Business Control System Checks](#)

[BOM - Segments Summary](#)

[Case Routing - Enforcement](#)

[Investigative Action](#)

[Default \(Scotland\)](#)

[Enforcement Action - Consider \(Scotland\)](#)

[Sanctions \(E, W and NI\)](#)

[Terminology Changes](#)

[Wilful Refusal/Culpable Neglect](#)