



Criminal Action - Decide

Whenever a Child Maintenance Group (CMG) employee suspects a paying parent, receiving parent, third party or employer of criminal activity they may send a criminal referral to the Financial Investigation Unit (FIU) or enforcement. The subject of the referral will determine who owns the case.

When the subject of the referral is a paying parent, the referral will be sent to Enforcement and the case will move to enforcement where a Case Manager will gather information about the alleged offence. The Case Manager will have end to end responsibility for the case which will include considering all civil and criminal enforcement action.

When the subject of referral is a receiving parent, third party or employer, the criminal referral will be routed to a caseworker in the Specialist Services Support Team (SSST). The caseworker will gather information about the alleged offence on behalf of the Investigating Officer (IO) within the FIU but end to end responsibility for the case will remain with the referring team.


When a paying parent fails to provide income details upon request, a criminal referral would only be considered if all other means of information gathering is unsuccessful.

If a paying parent commits an offence, each case should be considered individually, and consideration given to the welfare of any children. Further investigative action should be taken where appropriate.

The enforcement case manager will gather information about the alleged offence to confirm whether it actually took place. Where there is a need for face to face information gathering, the case manager will work closely with an investigative officer. Once enough information has been gathered the case manager will decide if the case should be forwarded for prosecution.

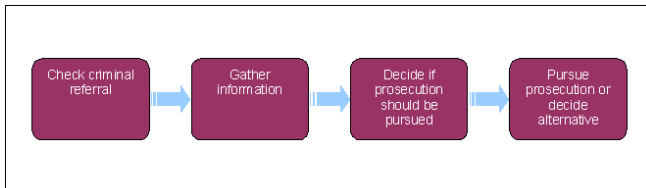
If the case is forwarded for prosecution, this will not affect the ownership of the case.

The purpose of this activity is for an enforcement case manager or a caseworker on SSST to gather information about an alleged offence by a paying parent, receiving parent, third party or employer. The enforcement case manager or the IO will then decide whether the case should be forwarded for prosecution.


 Do not set the **Ever in Enforcement** indicator in criminal cases. This should only be used to record that civil enforcement action has been taken against a paying parent.

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

For more information 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.



Check criminal referral






1. Locate the **Review Criminal Evidence** service request (SR):












- **Process = Enforcement**
- **Area = Review Criminal Evidence**
- **Sub Area = (one of the following offences)**
 - No info provided
 - Failure to notify Child Maintenance Group (CMG)
 - Failure to comply with request
 - Employment change failure

- Provision of false info
 - Failure to comply with DEO
2. Open the SR and set the **Status** to **In Progress** then complete the steps in the activity plan.
 -  When updating enforcement activity plans always work within the **Enforcement Actions** view, and update the **Outcome** field of each activity plan line rather than the **Status** field. Failure to do so may result in a technical error.
 -  Do not set the **Ever in Enforcement** indicator in criminal cases. This should only be used to record that civil enforcement action has been taken against a paying parent.
 3.  If you need more details about the alleged offence view the **Referral Alleged Investigation** SR completed by the instigating caseworker/manager.
 4. Check the referral and case details to decide whether there is sufficient information to accept the criminal referral. For more information refer to the Policy, Law and Decision Making Guidance 

Section 14A(3) - Failure to provide information	
Section 14A(3A) - Failure to notify a change of address	
Section 32(8) - Failure to comply with DEO	
Section 32(3) - Failure to notify of change of employment	
Section 14A(2) - Misrepresentation- knowingly supplying or knowingly allowing false information to be provided	
Section 15(9) - Obstruction of an inspector	

5. View any previous **Referral Alleged Investigation** SRs that were raised but not referred for investigation. There may be previous alleged offences that you need to reconsider as long as the time bar will be met. 
6. Select **Update Form/Document** in the SR to generate a **Criminal Action Details Evidence** record. Use this record and the **Notes** to record the relevant information you are gathering.
 -  Some of the fields will be populated with information input by the instigating caseworker/manager. If any information needs to be changed you can do this now.

Field name	Menu options/further information	
Ref/Alleged Off. Type (The alleged offence type)	Select an offence from the following list: Section 14 (a) 2 (E&W) Section 14 (a) 2 (Scotland) Article 16 (a) (2) (NI) Section 14 (a) 3 (E&W) Section 14 (a) 3 (Scotland) Article 16 (a) (3) (NI) Reg 15 of Child Support Act Article 17 (9) (NI) Section 32 (8) (E&W) Employer Section 32 (8) (E&W) NRP Section 32 (8) (Scotland) Employer Section 32 (8) (Scotland) NRP Article 32 (8) (NI) Employer Article 32 (8) (NI) NRP Article 17 (4) (NI) Section 15 (9) (E&W) Section 15 (9) (Scotland) Fraud Act 2006 (E&W) Fraud Act 2006 (NI) Common Law Fraud (Scotland) Theft act 1968 (E&W) Common Law Theft Act (Scotland)	
NRP Avoiding Payment?	YES or NO  For paying parent related offences this field is completed by the referring caseworker/manager. For more information refer to Suspicion Of Criminal Activity .	
Time Bar Date	Date: DD/MM/YYYY  Record the date that the time bar is due to expire.	


Referral Inf IED Date (The date information was requested under Child Support Information Regulations)	Date: DD/MM/YYYY	
Invest Act Refer dt (The date you refer the case to an investigative officer)	Date: DD/MM/YYYY	
Criminal Offence Occ (Has a criminal offence occurred)	YES or NO  When you have sufficient evidence, confirm whether a criminal offence has actually occurred.	
Referral Offence Type (The offence type)	Select an offence from the following list Section 14 (a) 2 (E&W) Section 14 (a) 2 (Scotland) Article 16 (a) (2) (NI) Section 14 (a) 3 (E&W) Section 14 (a) 3 (Scotland) Article 16 (a) (3) (NI) Reg 15 of Child Support Act Article 17 (9) (NI) Section 32 (8) (E&W) Employer Section 32 (8) (E&W) NRP Section 32 (8) (Scotland) Employer Section 32 (8) (Scotland) NRP Article 32 (8) (NI) Employer Article 32 (8) (NI) NRP Article 17 (4) (NI) Section 15 (9) (E&W) Section 15 (9) (Scotland) Fraud Act 2006 (e&W) Fraud Act 2006 (NI) Common Law Fraud (Scotland) Theft act 1968 (E&W) Common Law Theft Act (Scotland)  When you have sufficient evidence, confirm the type of offence that has occurred.	
Role of Referral (The role of the subject of referral)	Employer Accountant Companies & partnerships Representative Third party PWC NRP	
Prep of Pros. File Dt (the date that the prosecution file was created)	Date: DD/MM/YYYY	
Alleged Offence Date (The date of the alleged offence)	Date: DD/MM/YYYY  If the offence has occurred more than once, record the most recent date.	
Invest. Closed Dt. (The date you close the investigation)	Date: DD/MM/YYYY	
Sub Ref Based Jurisdiction (The jurisdiction of the subject of referral)	England and Wales Northern Ireland Scotland	
Letter issued Dt	Date: DD/MM/YYYY  If you are sending a letter, record the date of issue here.	
Inf To be returned Dt (The date that information is due to be returned)	Date: DD/MM/YYYY  If you are requesting information yourself, or through an investigative officer, record the due date here.	
Civil Action in Progress?	YES or NO	

7. Update the activity plan to confirm whether more information is required:

- Required – select this option if more information is needed or if a warning letter/interview under caution is required prior to considering criminal action – then go to **step 8**
- Not required – select this option if you are ready to consider criminal action - then go to **step 13**

Gather Information

8. Gather any information you need to progress the criminal referral. If you need a face to face visit go to **step 10**.

9.  If you're gathering information yourself, select **Gather Data/Evidence** and **CM Research** in the activity plan. If you're requesting information by letter, send the relevant letter in the table below. Set a **Wait** period of seven days to allow time for a response. When you have finished gathering information go to **step 12**.

Letter
CMEL7056 Ask the paying parent's local authority to give us some additional information
CMEL7181 Request for information from the paying parent
CMEL9088 Request for information from the paying parent or receiving parent
CMEL9214 Request to employer for wage details
CSF314 Request for information from Prisoner location service/Establishment Support Branch. For more information refer to Prison
CMEL9250 Ask accountant for further information about a paying parent
CMEL9253 Ask council/Rates Collection Agency for further information about a paying parent

10. If you need an investigative officer (IO) to gather evidence, select **Investigate** and **Initiate** in the activity plan. This will generate an **Investigative Action** SR that will be used to refer the case for an investigation. For more information refer to [Investigative Action](#).



Once the SR has been allocated to an IO, they may call you to discuss any further details required.



The IO will need to conduct an interview under caution (IUC) before prosecution can be considered. 

11. When referring a case for an IO investigation set a **Wait** period in the **Decide Criminal Action** SR to allow time for this action to be completed. Where necessary, discuss a suitable timescale with the IO.
12. Once you have gathered the information ensure that the relevant details are recorded on the system. Then consider if sufficient information has been received to decide if prosecution should be pursued:
- Sufficient information received – go to **step 13**
 - Insufficient information received – go to **step 8**



If you need the IO to complete further action you can generate another SR as in **step 10**.

Decide if prosecution should be pursued

13. Once you've reviewed all of the available information, decide if you're ready to forward the case to pursue prosecution. Refer to the Law and Policy Handbook links in **step 4**.
- Pursue prosecution – complete **steps 14 - 22**
 - Consider other action – complete **steps 23 - 25**



If new letters need to be issued before pursuing prosecution, issue them now.

Pursue prosecution

14. Prepare the prosecution file by gathering the relevant documents:
- CMEL9218 case file index
 - CMEL7500 Record of Officers
 - CMEL9212 Utility company enquiry letter
 - CMEL9215 Disclosure report cct6e
 - CMEL9216 Exhibit label
 - CMEL9217 Exhibit list
 - CMEL9219 Non sensitive unused material cct6c
 - CMEL9220 NPA01
 - CMEL9221 QB2 July 09 (see **step 15** for checking)
 - CMEL9222 Sensitive material cct6d
 - CMEL9223 Summary of Previous Offences
 - CMEL9224 Witness availability wna1
 - CMEL9225 Criminal prosecution file
15. Letter CMEL9221 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](#).

16. While you're preparing the prosecution file, take the appropriate action if you find that the case isn't suitable for prosecution:
 - More information needed - go to **step 7**
 - Case not suitable for prosecution – go to **step 23** and release the party from caution
17. If the case is suitable for prosecution, select the outcome **Done** in the **File prepared** line of the **Continue Prosecution** activity plan. The CMS System will automatically generate a child **Take Criminal Action SR**
18. Notify the instigating caseworker/manager of your decision, and ask them to set the **Lock assignment flag** if they have made a third party or employer referral. For more information refer to **Criminal Action**.
19. The **Decide criminal action** SR will remain open until you have completed the **Take criminal action** SR. Once this action is completed proceed to **Step 26** to manually close the **Review criminal evidence** SR.
20. Set a **Wait** period at your discretion to allow time for the **Take criminal action** SR to be progressed.
21. If the case is returned from the Legal Advisor's office (LAO) with a request for further evidence please go to **Step 8** to gather information.
22. Once you have gathered the required evidence set a further **Wait** period at your discretion to allow time for the **Take criminal action** SR to be progressed.

Decide alternative action

23. If the case is not suitable for prosecution, decide your next action:
 - Release party from caution – go to **step 24**
 - Don't release party from caution – go to **step 26**

 This option is used when the investigated party was never placed under caution.
24.  Send CMEL9228 to the party if you're releasing them from caution. Call the referring caseworker/manager officer to notify them of your decision.
25. Letter CMEL9228 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](#).
26. Once you've completed your action, close the **Decide Criminal Action SR** by updating the **Status** to **Closed** and the **Sub status** to **Completed**

4. Check the referral and case details to decide whether there is sufficient information to accept the criminal referral. For more information refer to the Law and Policy Handbook.

Article 16A(3) - Failure to provide information	
Article 16A(3A) - Failure to notify a change of address	
Article 32(8) - Failure to comply with DEO	
Article 32(3) - Failure to notify of change of employment	
Article 16A(2) - Misrepresentation- knowingly supplying or knowingly allowing false information to be provided	
Article 17(9) - Obstruction of an inspector	

CMEL7500 Criminal prosecution file Criminal record of officers

(Off system letter)

CMEL7056 We need some information

Ask the paying parent's local authority to give us some additional information.

If you are asking about rates only -select paragraph **TM_25886_E** - was this person liable to pay rates..and enter the required from and to dates

If you are asking about rates and council tax - select paragraph **TM_25887_E** - was this person liable to pay council tax/rates...and enter the required from and to dates

Select paragraph **TM_025889_E** - If the person was not liable for paying...and enter the required from and to dates

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

CMEL7181 Urgent - we need some information from you

Criminal Compliance - Request for information from paying parent

In the paragraph **TM_25340_E** 'We need some information from about your child maintenance case' enter the required information in the freetext field.

Under the sub heading 'What you need to do now', in the paragraph **TM_25250_E** enter the reason we need the information in the 'reason for requesting information' freetext field and the date the information needs to be returned to us in the 'date information to be returned by' freetext field.

CMEL9088 Urgent - we need some information from you

Request for information from paying parent/receiving parent.

Under the heading 'Urgent - we need some information from you' record the information you need in the free text box.

Under the heading 'What you need to do now' record the reason you're asking for the information and the date the reply is due in the corresponding free text boxes.

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

CMEL9212 Criminal prosecution file To request information

(Off system letter)

CMEL9214 Request to employer for wage details

Request to employer for wage details.

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

CMEL9215 Criminal prosecution file Disclosure officers report

(Off system letter)

CMEL9216 Criminal prosecution file Exhibit label

(Off system letter)

CMEL9217 Criminal prosecution file Exhibit list

(Off system letter)

CMEL9218 Criminal prosecution file Case file index

(Off system letter)

CMEL9219 Criminal prosecution file Schedule of non sensitive information

(Off system letter)

CMEL9220 Criminal prosecution file Police form NPA01

(Off system letter)

CMEL9221 Criminal prosecution file Summary of alleged offences (QB2)

(Off system letter)

CMEL9222 Criminal prosecution file Schedule of sensitive unused data

(Off system letter)

CMEL9223 Criminal prosecution file Summary of previous offences

(Off system letter)

CMEL9224 Witness availability

(Off system letter)

CMEL9225 Criminal prosecution file

(Off system letter)

CMEL9228 Interview under caution – action withdrawn

Tell interviewee that we are withdrawing action following assessment of evidence after interview under caution.

Under the sub heading 'Your recent interview under caution' enter the date of the interview and the reason for the interview in the free text areas.

CMEL9250 Urgent - we need some information

Ask accountant for further information about a paying parent.

Under the heading 'What you need to do now' record the date the form is to be returned, the tax year and any additional questions in the free text areas.

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

CMEL9253 Urgent - we need some information

Ask council/Rates Collection Agency for further information about a paying parent.

You will need to locally print this letter, and add a tick next to the information required.

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

Business Control System Checks

Criminal Action

Investigative Action

Prison

Suspicion Of Criminal Activity

Terminology Changes