

## Criminal Action

Whenever a Child Maintenance Group (CMG) employee suspects a paying parent, receiving parent, third party or employer of criminal activity they may send a referral to the Financial Investigation Unit (FIU) or enforcement. The subject of referral will determine who owns the case. For more information on FIU referrals, see [Financial Investigation Unit \(FIU\) Summary](#).

When a criminal referral is made it will be assigned to an Enforcement Case Manager or an Investigating Officer (IO) within the FIU who will gather information about the alleged offence. For more information refer to [Criminal Action - Decide](#). The IO and the Enforcement Case Manager will be responsible for considering the criminal enforcement action on the case.


Once enough information has been gathered the IO or the Enforcement Case Manager will decide if the case should be forwarded for prosecution.

When a case is forwarded for prosecution the IO or the Enforcement Case Manager will create a prosecution pack and send it directly to the CMG's legal advisors for consideration. This will be Legal Advisors Office (LAO) for England and Wales, Procurator Fiscal for Scotland or the Public Prosecution Service for Northern Ireland.

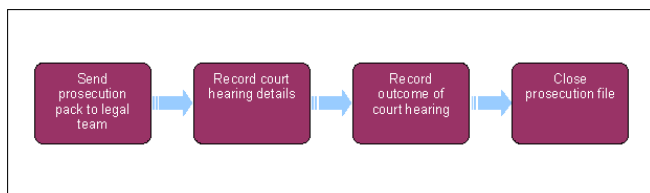
Once the legal advisors have made a decision the IO or Enforcement Case Manager will update the system to confirm whether prosecution is being pursued. If prosecution is pursued the IO or Enforcement Case Manager will use the system to record details of hearing dates and monitor their progress. The system will prompt the IO or Enforcement Case Manager to check the case at regular intervals and record the current status of legal proceedings.


When an outcome is received the IO or Enforcement Case Manager will inform the relevant CMG employee.

The purpose of this activity is for an IO or Enforcement Case Manager to send a prosecution file to the legal team, monitor the progress of a court hearing and update the system periodically with the current status of the case.

 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: [Criminal Action](#)

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



 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.

### Send Prosecution Pack To Legal Team



 For criminal action in Scotland, refer to [Criminal Action \(Scotland\)](#).

1. Before completing this process ensure that an interview under caution (IUC) has been completed or attempted. For more information refer to [Criminal Action - Decide](#).


For more information on criminal action refer to the Policy, Law and Decision Making Guidance 

2. Locate the **Take Criminal Action** service request (SR):



- **Process = Enforcement**
- **Area = Take criminal action**
- **Sub Area =** (one of the following offences)
  - **Employment Change Failure**
  - **Failure To Comply With DEO**
  - **Failure To Comply With Request**
  - **Failure To Notify CMG**
  - **No Info Provided**
  - **Provision Of False Info**

3. Open the SR and set the **Status** to **In Progress**. The CMS system will generate an activity plan at this point.
  -  Do not set the **Status** to **Pending Assignment**. This will ensure that the SR stays with you while you are working on it.
4. Check the prosecution file to ensure that the case is ready to be forwarded for prosecution. For more information refer to [Criminal Action - Decide](#).  
For more information refer to the Policy, Law and Decision Making Guidance 
5. Send the prosecution file to the legal advisors office (LAO).
6. Set a **Wait** period of seven days in the SR to allow time for the legal team to decide whether the case should be forwarded for prosecution.
7. Check the response from the legal team. View the **Inbound Correspondence** for a decision. If no decision is held call the legal team to confirm the decision:
  - Case not suitable for prosecution – go to **step 8**
  - Case suitable for prosecution – select **Update form** and enter the role of the person to be prosecuted & type of offence then go to **step 11**


### Referral For Prosecution Not Suitable

8. If the legal advisors have decided that the case should not be forwarded for prosecution, update the court file **Status** on the system. Then update the activity plan to confirm whether any further information is required.
9. When further information is required, close the SR. Gather the required information. For more information refer to **Steps 21** of [Criminal Action - Decide](#).
10. When further information is not required the party will be released from caution. **Close** the **Take Criminal Action** SR. Release the party from caution. For more information refer to [Criminal Action - Decide](#).
  -  Once you have closed the **Take Criminal Action** SR you have completed this process. If prosecution is considered later on, a new SR will be generated.


### Record court hearing details

11. If the legal advisors have decided that the case should be forwarded for prosecution, update the system with the court hearing details. Select **Hearing Records** in the SR and **New** to create a new record.
  -  If you need to edit an existing record, select **Edit**.
12. Set a **Wait** period in the SR for the day after the court hearing date to allow time for a decision.
  -  The activity plan contains a line for **Letter outbound**. This may be marked as **Not applicable**.
13. Check the outcome of the court hearing.
  - Case adjourned – go to **step 12**
  - Case not adjourned – go to **step 14**

### Record Outcome Of Hearing

14. Record the outcome of the hearing in the Hearing Records on the system. Select **Update form** and enter details of the hearing outcome and any fines imposed. Set a **Wait** period in the SR for 21 days to allow time for the party to appeal.
15. If there is an application for an appeal against a criminal action do not create a new Appeal SR as the appeal will be handled off line. Set a further Wait period at your discretion for pending the outcome of the appeal
  -  You will be advised of an appeal by the CMG Team in England and Wales, The Public Prosecution Office in Northern Ireland, or the Procurator Fiscal in Scotland.
16. Once the appeal **Wait** period has elapsed check if the appeal was successful. Complete step 4 of the activity plan at this point: **Consider releasing party**.
  - Appealed successful – go to **step 20**
  - Appealed unsuccessful – go to **step 17**

### Close prosecution file

17. If the party has not appealed or appeal was unsuccessful, dismantle the prosecution file. Ensure that any relevant documents are returned to their originating areas and copies retained where applicable. For more information refer to the Policy, Law and Decision Making Guidance 
18. Tell the owning line of business of the outcome if you didn't instigate the criminal action yourself, and the case is not held in enforcement.
19. When you call the owning line of business, tell them that they need to remove the **Lock Assignment** flag. Then record in the **Notes** that you've done this.



When the Lock Assignment is removed, this will allow the case group to move automatically to a different line of business if required.

20. Manually close the SR by updating the **Status** to **Closed** and the **Sub status** to **Completed**.
21. Once you have completed the Criminal action SR return to the procedure for [Criminal Action - Decide](#) to close the parent SR.
22. If the criminal action was taken due to non-provision of information and this information is still required, consider your next course of action. For more information refer to [Criminal Action - Decide](#) and [Investigative Action](#).

5. Send the prosecution file to the Public Prosecution Service 

[Case Routing - Enforcement](#)

[Criminal Action - Decide](#)

[Criminal Action \(Scotland\)](#)

[Investigative Action](#)

[Suspicion of Criminal Activity](#)

[Financial Investigation Unit \(FIU\) Summary](#)