



## Enforcement Action - Consider (E And W)

When considering a case for civil or criminal legal action, a case manager makes their decision based on information gathered from a number of sources and by reviewing the unique history of the case/s concerned.

This action is taken by enforcement case managers in England and Wales.

This procedure describes the process taken when considering the next step of enforcement action and allows the case manager to initiate the gathering of information from online resources and third parties. Prior to deciding the next enforcement action case managers will be able to assess the risk of a paying parent (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) disposing of asset/s, based on information gathered in previous stages of the case.



When speaking to the paying parent at any point during enforcement, take the opportunity to tell them why we are considering or taking this action. Explain that enforcement is not the Child Maintenance Group's (CMG's) preferred course of action and tell the paying parent what they can do to get their child maintenance payments back on track i.e. making a lump sum payment and adhering to an arrears agreement.

It is important that data protection laws are adhered to and that a record is kept of how this information is used or that it has been destroyed/disregarded.

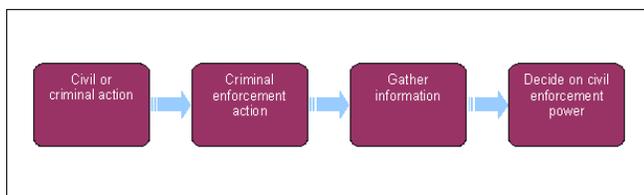
This process also allows the initiation of criminal enforcement action against a paying parent, receiving parent (the parent who receives or who is expected to receive child maintenance, known as the parent with care (PWC) or person with care (PeWC) on the system and in legislation), third party or employer. Criminal action can be taken in parallel with civil action.

You must ensure that you raise the SR on the correct subject as this will determine which area the referral moves to.

For more information on a full list of measures available to enforce paying parent arrears refer to the Policy, Law and Decision Making Guidance



Existing business processes should be followed if a Liability Order has previously been granted on any CSA system. For more information refer to the [Enforcement/Liability Order Actions - Check CSA](#) procedures. All Segment 5 cases with previous CSA Legal Enforcement action will automatically generate an SR which will be managed by the 1993/2003 Rules Reassessment team who will build the Liability Order. For more information refer to **Enforcement Transition Part 1** and **Enforcement Transition Part 2** from [Fundamentals](#).



When speaking to clients always use the new terminology - for more information refer to [Terminology Changes](#).

### Civil or criminal action



Consider issuing an SMS to advise the paying parent that we are taking legal action against them. Refer to [SMS Text](#) for further information.

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

- **Process = Enforcement**
- **Area = Decide On Enforcement Action**
- **Sub Area = Gather Information**

Update the SR **Status** to **In Progress**. The CMS system will generate an Activity Plan at this point.

2. Select **No** in the **Any Evidence Of Criminal Activity** field if you are considering civil enforcement action only and go to **step 6**.

3. Select **Yes** in the **Any Evidence Of Criminal Activity** field if you consider criminal proceedings would be appropriate and go to **step 4**. For more information on policy guidance when considering criminal evidence refer to the Policy, Law and Decision Making Guidance 

## Criminal enforcement action

4. Update the **Initiate Criminal Action** field with one of the following options:

- **Failure to notify Child Maintenance Group (CMG)**
- **Failure to comply with request**
- **Employment change failure**
- **Provision of false information**
- **Failure to comply with DEO**

The CMS system will create a child SR for criminal action at this point. For more information refer to [Criminal Action - Decide](#).

5. Select **No** in the **Continue Data Gathering** field if you do not wish to take civil enforcement action and manually close the work item by updating the SR as follows:

- **Status = Closed**
- **Sub Status = Completed**

6. Select **Yes** in the **Continue Data Gathering** field if you wish to also take parallel civil action and go to **step 7**.

## Gather information



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](#).

7. Check online search facilities and with any external organisations for any new information regarding the paying parent's (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) circumstances:

- Customer Information System (CIS)
- Credit Reference Agency (CRA) information held in CMS system
- Companies House
- Land Registry - guidance on accessing the Her Majesty's Land Registry site can be found [here](#).
- Driver and Vehicle Licensing Agency (DVLA) (when considering criminal action)
- Her Majesties Revenue and Customs (HMRC)
- Insolvency Register

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

Update the activity plan, once complete a new activity plan will display. Then **Assess Online Information** field to **Done**.

8. Add a note in the **Notes** field if no relevant information is gathered from the online search facilities



9. Issue the following letter to any third party that you may wish to ask for further information.  **In relation to deposit takers i.e. Banks or a Building Society, it is only the Deduction Order Teams (DOT) or Financial Investigations Unit (FIU) who are authorised to make requests.** Third parties include:

- Employers – CMEL9251
- Banks – CMEL9251
- PWC – CMEL9236 – a detailed questionnaire
- PWC – CMEL7183 – when receiving parent (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) is subject to a criminal referral
- Council or local authority – FT9253
- DVLA - Complete form CMEL9235 to raise a query with the regional CSA SPOC, who will complete form VQ615 and submit it to the DVLA. The CSA SPOC will advise you once a response has been received



Note that letters CMEL9253 and 9251 will need to be manually generated.

10. Update the **Letter Outbound (Request 3rd Party)** field to **Done**. Set a **Wait** period at your discretion to allow a reply to be received.

11. Record any evidence you decide to retain on the system by updating the Asset view. In addition to this, update the **Record Data and Source** field of the activity plan with the information received and source of information e.g. third party, Inland Revenue, Companies House etc.



Use the **Asset** view to record assets on the system. If you decide to take any enforcement action, you will use the **Contact Asset** view to associate the asset/s to your enforcement SR. To do this, take the following action;

- In SR list select **Documents**
- Select Correspondence document to be attached
- Select on Link to SR, this will link/attach documents
- You can view these in the **SR Attachment** Tab

When recording assets, only use the data fields under the applet name. Don't use the menu next to **Asset Type**.

12. Record if the information you gathered was relevant in the **Notes** field. If not, ensure that it is deleted or disregarded. Retain a record of the search for audit purposes and refer to case routing if no enforcement action is possible. For more information refer to [Case Routing - Enforcement](#).
13. Go to **step 14** for a summary of possible civil enforcement actions.



Where arrears are identified as being on the CSA systems, you will need to ask for the arrears to be fast tracked onto the CMS system. For more information on fast track arrears refer to [Fast Track Legacy Arrears to CMS System](#). Although this speeds up the receiving parent arrears decision process, any further deferral rules will still apply. Due to this there is no set time frame for arrears to be sent to the CMS scheme and the time taken will depend on each individual case.



When considering potential enforcement actions, also investigate if there has been any previous enforcement action taken against the paying parent under the CSA. For more information refer to [Enforcement Actions \(CSA\) - Input](#).

## Decide on civil enforcement power

14. Based on your investigation of the case, select the appropriate enforcement power. The choice of enforcement action is a discretionary decision, and when making such a decision case managers should consider all the relevant factors, including welfare of any children affected. For more information of each of the sanctions below, refer to the Policy, Law and Decision Making Guidance 

- **Lump sum deduction order (LSDO)**: consider this action if the paying parent has a bank account with suitable funds to allow a lump sum to be deducted.
- **Regular deduction order**: consider this action if you wish to take funds from an paying parent's bank account on a regular basis.
- **Freezing order**: consider this action if you consider there is a risk of the paying parent disposing of any assets or removing them from the CMG's jurisdiction.
- **Set aside disposition order**: consider this action when a paying parent has disposed of an asset to a known third party (e.g. their partner or a family member).
- **Liability order (LO) magistrates court**: consider this action when you want a specific period and amount of debt to be officially recognised. This will enable further civil enforcement action to follow.
- **Registering liability order at county court**: consider this action in cases where you wish to apply for a charging order or third party debt order.
- **Charging order**: consider this action if you wish to seize any asset (e.g. property or shares) that the paying parent may own, or as a tool to secure paying parent compliance. Before taking this action you must have the liability order registered at a county court in the paying parent's area of residence.
- **Order for sale**: consider this action in cases where a charging order has already been granted if you wish to force sale of an paying parent's asset/s.
- **Bailiff action**: consider this action when you wish to have an paying parent's asset/s seized and auctioned, or enforced arrears collected directly from a paying parent. Check that no Nulla Bona has been returned for the paying parent in the last 6 months.
- **Third party debt order**: consider this action to recover paying parent assets that are held by a third party. Before taking this action you must have the liability order registered at a county court in the paying parent's area of residence.
- **Registering the liability order with the register of judgements orders and fines (RJOF)**: consider this action if the paying parent is a member of a professional body (e.g. a solicitor, barrister or doctor). An entry on the RJOF may cause them to be struck off as well as affecting their credit rating.



Enforcement Case Managers **must** also consider whether parallel or concurrent action is appropriate. For more information about parallel and concurrent actions see [Enforcement Overview](#) and [Enforcement Overview \(Scotland\)](#).

15. Each enforcement action is subject to a *de minimis* amount; the amount below which the action should not be considered

- Liability Order £500.00
- LSDO £500.00
- Charging Order £500.00 - £750.00 depending on the court
- Order for Sale £3,000.00

- Commitment £1,000

16. When every possible means of debt recovery listed at **step 14** has been exhausted and where there is evidence of wilful refusal or culpable neglect, you may consider the following sanctions as a last resort to encourage a paying parent to comply. For more information of each of the sanctions below, refer to the Policy, Law and Decision Making Guidance 

- Disqualification from holding or obtaining a driving licence: consider applying for an order of disqualification in cases where all other sanctions have been exhausted and the paying parent does not depend upon driving for their livelihood.
- Commitment: consider applying to court for a warrant of commitment if all other sanctions are exhausted and the paying parent does not hold a passport or driving licence.

Go to **step 17** to complete this action once you have decided on the civil enforcement power you wish to employ.



The decision to apply for any of the above enforcement powers 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 **Update Child Welfare Details** –

**Reason** refer to Policy, Law and Decision Making Guidance .

17. Once you have confirmed which enforcement power is appropriate, manually close the work item by updating the SR as follows:

- **Status = Closed**
- **Sub Status = Completed**

#### CMEL7183 Urgent – we need some information from you

Criminal Compliance - Request for information from receiving parent with IO visit

In the paragraph **TM\_25340\_E** 'The information we need is...!' enter the information required in the freetext field.

Under the sub heading 'What you need to do', in the paragraph **TM\_25341\_E** enter the reason we need the information in the 'enter reason' freetext field and the date the information needs to be returned to us in the 'date information to be returned by' freetext field.

#### CMEL9236 Child maintenance arrears - we need some information

Receiving parent information gathering letter

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

#### CMEL9251 Information request with investigating officer warning

Information request with investigating officer warning (for contacting third parties e.g. gathering pension information).

Under the sub heading 'We need some information' enter the name of the person and what the information relates to in the free text fields and select one of the following:

If this person has been approached for this information but has failed to supply it, use paragraph **TM\_01662\_E**: 'If this person has been approached for this information but has failed to supply it'

If we have been unable to trace this person and need to establish an address, use paragraph **TM\_01663\_E**: 'If we have been unable to trace this person and need to establish an address'

The following elements of the letter are optional:

- Use paragraph code **TM\_10661\_E** to include: Paying Parent's national insurance number
- Use paragraph code **TM\_10659\_E** to include: Paying Parent's address, if known in Siebel
- Use paragraph code **TM\_10660\_E** to include Paying Parent's date of birth

#### 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 tick the box next to the information required.

#### VQ615 We need your help to trace someone

Request for information about a paying parent (to DVLA, DVA).

Complete the request form with the following details:

- Your contact details

- Data protection registration number and expiry date
- Case reference number
- NRP's full name
- Vehicle details and registration number
- The reason for the request
- The legislation under which the information is requested

For an example of a completed form, refer to [VQ615 We need your help to trace someone](#)

If you do not know the make and model of the car, please please input **Not Known**. Failure to do so may lead to the referral being rejected.

[Admin Account - Add To](#)

[Bailiff](#)

[Case Routing - Enforcement](#)

[Charging Order](#)

[Criminal Action - Decide](#)

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

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

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

[Enforcement-actions-Legacy-input](#)

[Enforcement Overview](#)

[Fast Track Legacy Arrears to 2012 System](#)

[Freezing Order](#)

[Liability Order Referral - TL](#)

[Liability Order - Register In County Court](#)

[Liability Order - Register With The Register Of Judgements Orders And Fines](#)

[LSDO Interim - Set Up/Amend](#)

[LSDO Final - Set Up/Amend](#)

[Order For Sale](#)

[RDO - Authorise](#)

[Set Aside Disposition Order](#)

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

[Terminology Changes](#)

[Third Party Debt Order](#)