



17 January 2025

Tēnā koe

Official Information Act request

Thank you for your email of 28 October 2024, requesting all of the Ministry of Social Development's investigation guidelines and processes.

I have considered your request under the Official Information Act 1982 (the Act).

Your request is broad in scope and would likely have been refused under section 18(f) of the Act as substantial manual collation would be required to provide the information.

As such, we have interpreted this request to be for guidelines and processes relating specifically to Wage Subsidy investigations, based off your original email '*Re: Wage Subsidy interview.*' If this was not the intent of your request, please let us know and we will log this as a new request.

Six documents have been identified as in scope of your request. Please find the following five documents attached:

- *COVID-19 Economic Supports enforcement and recovery decision-making framework* – dated July 2022
- *COVID-19 Economic Supports Response and Recovery* – dated 14 November 2024
- Wage Subsidy Investigation High Level Process – dated 10 August 2023
- *COVID-19 Economic Supports Investigation – Production Order Process Flow v9* – dated 4 March 2024
- Wage Subsidy Review of Decision Process – CSI Cases – dated 19 December 2022.

Please note, the links included in the '*COVID-19 Economic Supports Response and Recovery*' page are not publicly accessible as this document is from the Ministry's intranet, Doogle. I have not provided you with the titles of those links as they are deemed as out of scope of your request.

The Ministry is currently assessing the final document identified in scope of your request titled '*Guidance for investigators*.' Internal consultations with the Ministry's Legal team are underway, to determine whether this document is subject to legal professional privilege, and therefore whether it can be released to you.¹

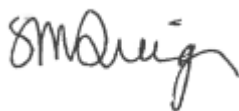
I will provide you with another update on our progress considering this document on 31 January 2025, and I apologise for the delay in providing you with my decision on this last aspect of your request.

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

pp. 

Magnus O'Neill
General Manager
Ministerial and Executive Services

¹ Noting, that section 9(2)(h) of the Act provides good reason to withhold information to maintain legal professional privilege, where no public interest factors in favour of release outweigh the need to protect privileged information.



4 August 2025

Tēnā koe

Official Information Act request

Thank you for your email of 28 October 2024, requesting information about COVID-19 Wage Subsidy investigation guidelines and processes.

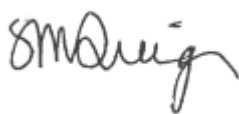
As advised to you in our partial response of 17 January 2025, further consultations were required while assessing the final document, titled '*Guidance for investigators*', identified in scope of your request. I would like to sincerely apologise for the delay in responding to you regarding this document, due to an administrative oversight.

The Ministry has concluded that '*Guidance for investigators*' is withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

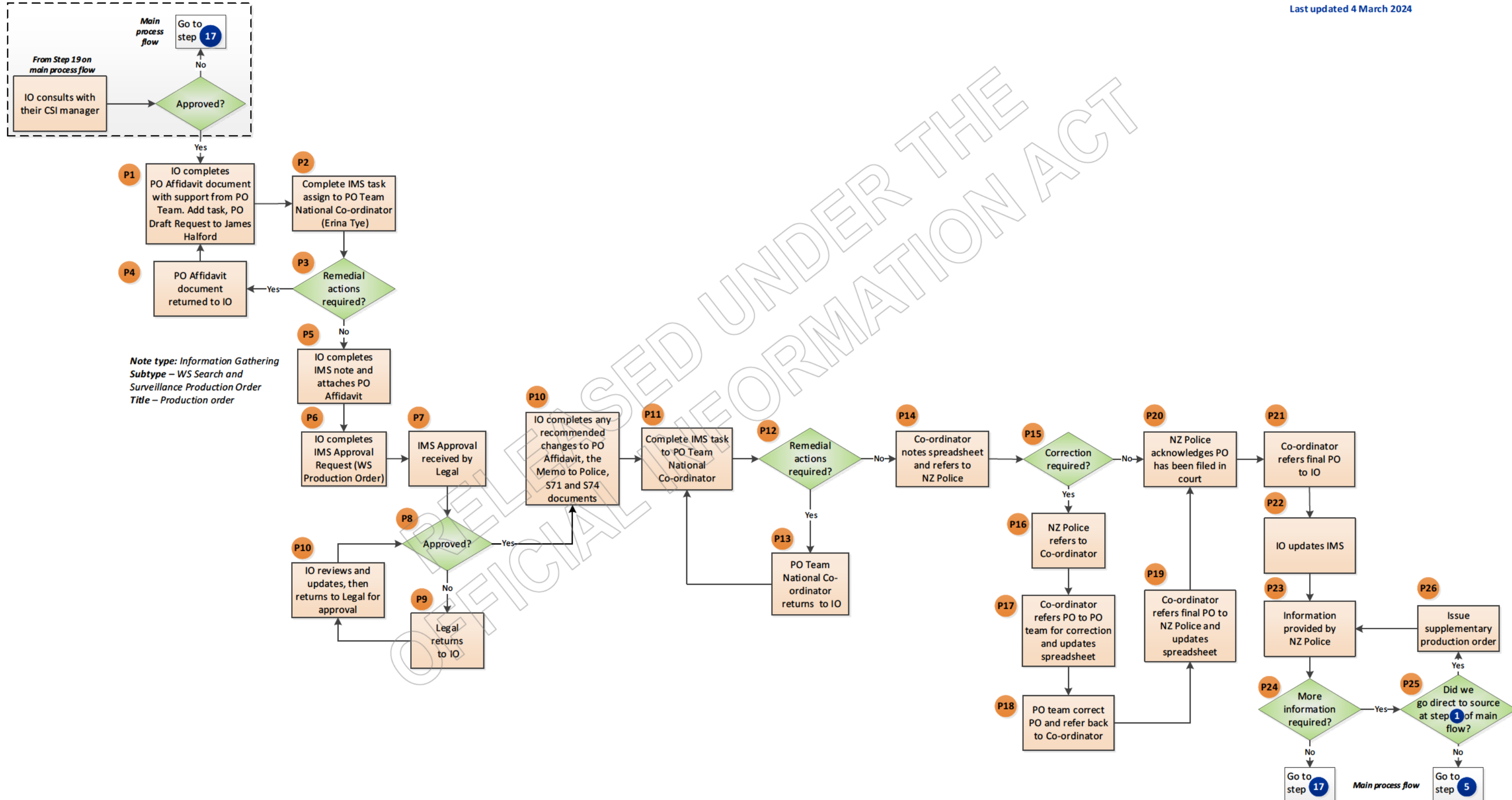
Ngā mihi nui

pp. 

Anna Graham
General Manager
Ministerial and Executive Services

COVID-19 Economic Supports Investigation – Production Order Process Flow v9

Last updated 4 March 2024



Note: This process applies to all COVID-19 economic supports administered by the Ministry, including the Wage Subsidy, Leave Support Scheme and Short-Term Absence Payment.

COVID-19 Economic Supports Response and Recovery

This page provides the Client Service Integrity and Client Support Debt Management processes for investigating and recovering COVID-19 economic supports, including the Wage Subsidy.

On this Page:

Response and Recovery

In March 2020 the Government implemented an economic package in response to the COVID-19 pandemic. The package consisted of tax-payer funded subsidies for those who were in business and were either self-employed or employed others, and met the eligibility criteria. There were subsequent extensions to the package to help employers retain their staff as a result of the impacts of COVID-19. All payments pursuant to the package and subsequent extensions are collectively referred to as the wage subsidy.

The wage subsidy was initiated quickly, based on a high trust model, to ensure employers could pay their employees without delay. Where the Wage Subsidy, Leave Support Scheme payment, and/or Short Term Absence Payment (collectively known as COVID-19 economic supports), was fraudulently obtained and/or retained where it should not have been, there is a high expectation that MSD will respond to the loss of those public funds.

Where we have identified that an applicant may have claimed a subsidy they were not entitled to or where we receive allegations of incorrectly paid subsidy, we may choose to investigate the case to determine if any offending has occurred or whether a refund of subsidy should be made.

MSD's first avenue for recovery of funds from those who should not have received and/or retained them, is voluntary repayment in full. MSD's second avenue is repayment of the debt as requested, and/or by an agreed repayment plan. You can read more on our debt recovery approach, including actions and the delegated authority to enter into repayment arrangements,

Out of scope

Where debt recovery is unsuccessful, MSD's third avenue is to take enforcement action as outlined in the COVID-19 Enforcement and Recovery decision making framework where prosecution, recovery through the civil courts, and/or recovery through restraint and forfeiture pursuant to the Criminal Proceeds (Recovery) Act 2009 may be considered.

The process flows below detail our COVID-19 Economic Supports enforcement and recovery approach:

[COVID-19 Economic Supports enforcement and recovery decision-making framework \(Word 141.81KB\)](http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/20231219-ces-enforcement-and-recovery-framework.docx) [http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/20231219-ces-enforcement-and-recovery-framework.docx]

[COVID-19 Economic Supports Investigation Main Process Flow \(Word 429.37KB\)](http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/covid-19-economic-supports-investigation-main-process-updated-100823.docx) [http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/covid-19-economic-supports-investigation-main-process-updated-100823.docx]

[COVID-19 Economic Supports Investigation Production Orders process flow \(Word 191.9KB\)](http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/covid-19-economic-supports-investigation-production-orders-process-flow-040324.docx) [http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/covid-19-economic-supports-investigation-production-orders-process-flow-040324.docx]

Out of scope

Out of scope

Out of scope

Post-payment Integrity checks

Each Wage Subsidy scheme required applicants to make a declaration and complete an application form. Both the declaration and the application form comprise the applications made by each recipient. The declaration requires the applicant to declare they have met the eligibility criteria for the scheme and that they will comply with the obligations specified in the scheme. The declaration forms the legal contract between MSD and the recipient of the wage subsidy.

The following documents sets out the guidance and processes for post payment integrity checks of applications for any scheme or support package.

Out of scope

Out of scope

Investigations

As part of its administration of the wage subsidy scheme, MSD reviews possible errors, waste and fraud within that scheme, and instances where employers have otherwise obtained/retained wage subsidy funds when they should not have.

The following guide has been prepared in order to provide investigators with a general background as to how wage subsidy investigations may be approached, by reviewing the likely offences which will be considered, accompanying evidential considerations and the various recovery options.

[Guidance for investigators](http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/wage-subsidy-guidance-for-investigators-21.10.2022-current.pdf) (PDF 552.46KB) [\[http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/wage-subsidy-guidance-for-investigators-21.10.2022-current.pdf\]](http://doogole/documents/business-groups/helping-clients/service-delivery/fraud-intervention-services/wage-subsidy-guidance-for-investigators-21.10.2022-current.pdf)

Out of scope

Production Orders

Production order applications can be made under Section 71 of the Search and Surveillance Act 2012 by an enforcement officer (this does not include staff from the Ministry of Social Development) and requires a person or organisation (such as a business) to produce documents to enforcement agencies as evidential material of a specified offence. Production orders are issued by issuing officers (e.g., Court Registrar). The Ministry is not listed as an enforcement agency in the Schedule of the Search and Surveillance Act 2012 so we must ask New Zealand Police to assist us in getting a production order.

Threshold

You must have reasonable grounds to suspect:

that an offence has been, is being or will be committed (being an offence for that officer may apply for a search warrant), and believe that the documents constitute evidential material in respect of the offence and are in the possession or under the control of the person against whom the order is sought (or will come into their possession or under their control while the order is in force).

Documents

To apply for a production order, a Section 71 application (document) and an Affidavit supporting the information you have gathered thus far to reach the threshold, along with a Section 74 application (document) must be prepared for New Zealand Police.

Out of scope

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Out of scope

Identity Fraud: Inland Revenue Record Amendment

In cases of Identity Fraud in wage subsidy fraud cases, there are potentially tax implications for the victim. To amend the tax records, the victim and Inland Revenue need to be informed at the conclusion of the investigation.

Victim: There are no privacy implications in notifying the innocent party of the outcome of the investigation (particularly as the letter does not reveal any personal information about the fraudulent party), and it is best practice that MSD is transparent in informing the victim as to what, of their personal information, will be shared with IR (and for what purpose). As a guide allow 10 days before sending information to Inland Revenue.

When informing the victim of the outcome please use the *CSI Disclosure ID Findings to Client* letter in CMS.

Inland Revenue: IPP11(1)(a) authorises the disclosure of the personal information where fraudulent and innocent party personal information has been collected as part of an investigation into a potentially fraudulent wage subsidy application. One of the purposes of that collection is to determine whether the wage subsidy has been paid/attributed correctly (or received by the correct party).

Directly related to that purpose (if not part of the purpose itself) is disclosure of information necessary to ensure that information has been correctly recorded: where necessary, this would include disclosure of the innocent and fraudulent parties' details (as the recorded vs actual recipients of the wage subsidy) to Inland Revenue.

It is important to ensure that we are only disclosing to IR the information they require to update their records, and that, in accordance with IPP8 the information is accurate.

The information IR require for wage subsidy cases is the victim's name and IRD number (noted as the client in the letter), the time period that the change covers, the total subsidy that needs to be removed, along with the receiver's (subject) name, date of birth, IRD number and address.

When confirming the details to Inland Revenue please use the *CSI Identity Fraud - Informing IR* letter in CMS and send email to: wagesubsidyqueries@ird.govt.nz [mailto:Compromisedidentity@ird.govt.nz].

Referral to the MSD Prosecution Review Panel

Where an applicant has had an integrity check or investigation completed and a refund has been requested but the applicant has failed to or refused to make a refund, consideration can be given to seek approval for civil proceedings to recover the money. Prosecution action may also be considered where there may be evidence of fraud.

For more information on the MSD Prosecution Review Panel and how to submit Panel Referrals please click the link below:

Out of scope



Review of Decision

An applicant can ask for a decision to be reviewed where MSD has requested they repay some or all of the subsidy or payment they have received. The request for a review of decision may come through the S2P ROD queue, an email from the Contact Centre, or an email from another area of MSD. In all cases, please add notes to EES and follow the process as documented below.

Out of scope



Content owner: [Client Service Integrity](#) Last updated: 14 November 2024

RELEASED UNDER THE OFFICIAL INFORMATION ACT

COVID-19 Economic Supports enforcement and recovery decision-making framework

1 Initial decision-making

Client Service Integrity (CSI) team

Includes integrity checks/reviews through to investigations. Cases may originate from allegations, integrity checks, data matching and/or other teams.

- Identify repayment as the result of a review or investigation and issue repayment demand letter
- Criminal prosecution, proceeds of crime and civil debt recovery cases are conducted by Investigators and recommendations are made to the COVID-19 Economic Supports Response and Recovery Panel (**step 2**)
- **Requested repayments** are referred to Client Support Debt Management (CSDM). Where debt recovery processes are unsuccessful, these are returned to CSI to proceed with a recommendation for civil debt recovery
- Investigations may result in no recommendation to take enforcement action (see **No enforcement action**)
- Investigations in progress may include referrals to the Police Asset Recovery Unit (see **ARU referrals**)
- Investigation cases may be requested by the Serious Fraud Office (see **SFO referrals**).

Requested repayment process

Managed by the CSDM team. Refer to the *COVID-19 Economic Supports debt recovery approach*. Cases may still be recommended for civil debt recovery or criminal proceedings if repayment is not made (see step 2).

No enforcement action

Any investigation that results in a debt being established, but no recommendation to take enforcement action, requires approval by the responsible CSI Area Manager in conjunction with Legal. If the Area Manager supports the Investigators recommendation to close, they will complete a *Case Closure Referral* form for consideration and approval by MSD Legal. Any unpaid debts may be referred by CSDM to CSI to make a recommendation to take enforcement action.

ARU referrals

Where an investigation that is underway requires a search warrant and/or consideration of the seizure of assets, CSI will engage with the Police Asset Recovery Unit (ARU). Approval to engage with the ARU on a case-by-case basis is given by the responsible CSI Area Manager. ARU will assess the case against their criteria, investigate as necessary and file in Court. Investigations completed by CSI may be referred to the Panel for consideration of prosecution.

SFO referrals

The National Manager CSI will engage with the Serious Fraud Office (SFO) on cases indicating a high-level of complexity and/or offending. Initial discussions are based on high level case criteria. The SFO will issue a section 9 (SFO Act 1990) request for any cases that they determine meet their criteria to investigate.

Legal review

All legal reviews of recommendation reports to the Panel are facilitated by MSD Legal. The legal review will address evidential sufficiency and any legal issues raised by CSI.

Post-panel decision communications

Following agreement by the Panel to take civil recovery action, MSD Legal and/or Crown Solicitors will issue a letter to the recipient providing one last opportunity to make repayment prior to commencing civil proceedings.

Post-Panel communications where the decision to take prosecution action has been made will be considered on a case-by-case basis by the Panel.

Notifying the Companies Office

Where prosecution charges result in a sentence, the Integrity and Debt Information and Advice team will notify the Companies Office of any individual sentenced on relevant charges. The Companies Office is responsible for applying directors' prohibitions under section 382 of the Companies Act 1993.

2 Recommendation report to Panel

CSI team

All recommendations to take prosecution and/or civil debt recovery and/or proceeds of crime action are made to the COVID-19 Economic Supports Response and Recovery Panel (the Panel). CSI will have regard to Panel guidance when preparing their recommendation. The report is only referred to the Panel if MSD Legal and/or Crown Solicitors agree the evidential sufficiency test is met (see **Legal review**), otherwise CSI will undertake further investigation (and/or the case may result in **no enforcement action**).

3 Panel decision

The COVID-19 Economic Supports Response and Recovery Panel will consider any recommendations made to it in line with *the COVID-19 Economic Supports Response and Recovery Panel: Terms of Reference* and Solicitor-General guidelines.

4 Enforcement

Legal proceedings commence:

- MSD instructs lawyers and lays charges and/or
- MSD instructs lawyers and commences civil proceedings.

Guidance and criteria for Panel in Step 3

The panel is tasked with determining what action to take. Set out below are key indicia of when each type of action may be appropriate:

Criminal prosecution (may be together with proceeds of crime recovery or civil recovery)

Prosecution is likely to be appropriate when:

- Evidential sufficiency for criminal charges has been confirmed by legal (if not, consider appropriateness of civil recovery or proceeds of crime recovery)
- Dishonest conduct is present
- No entitlement to funds and no basis to believe they were entitled
- No engagement with MSD/no genuine engagement about whether/how they need to repay
- Public interest criteria met (to be determined by the Panel)
- No minimum value: any COVID-19 Economic Supports funds fraud could be considered for prosecution.

Proceeds of crime recovery process (may be together with criminal prosecution)

Proceeds of crime action is likely to be appropriate when:

- An underlying offence is present and evidential sufficiency on the balance of probabilities has been confirmed by MSD Legal and/or Crown Solicitors
- Charges have been filed or are contemplated (though of course charges are not necessary, but simply an indication that proceeds of crime action may be appropriate)
- Value exceeds minimum threshold of \$30,000 (or a reason exists to go lower).

Civil debt recovery (may be together with criminal prosecution)

Civil recovery action is likely to be appropriate when:

- Evidential sufficiency for civil recovery action on the balance of probabilities has been confirmed by MSD Legal and/or Crown Solicitors
- Initial application appears to have been made in good faith i.e. no overt dishonesty (civil debt recovery can still be appropriate in cases involving dishonesty, but the absence of dishonesty often suggests that civil debt recovery, as opposed to prosecution, will be appropriate)
- No charges will be laid (although civil debt recovery does not preclude criminal prosecution, and proceedings may be concurrent)
- Any dispute or refusal to repay is based on genuinely held beliefs or objective evidence (as above, disputes based on dishonesty do not mean civil action is not appropriate, and it may give rise to concurrent proceedings)
- No minimum value: any COVID-19 Economic Supports funds fraud could be considered for civil recovery action.

Alternatively: In some cases it may be appropriate to pursue all three avenues of enforcement action. Such cases may involve multiple parties with different types of conduct/culpability, a high value of funds obtained or other complexities.

Alternatively: No action necessary.

CASE APPRECIATION

INFORMATION GATHERING FROM THE APPLICANT

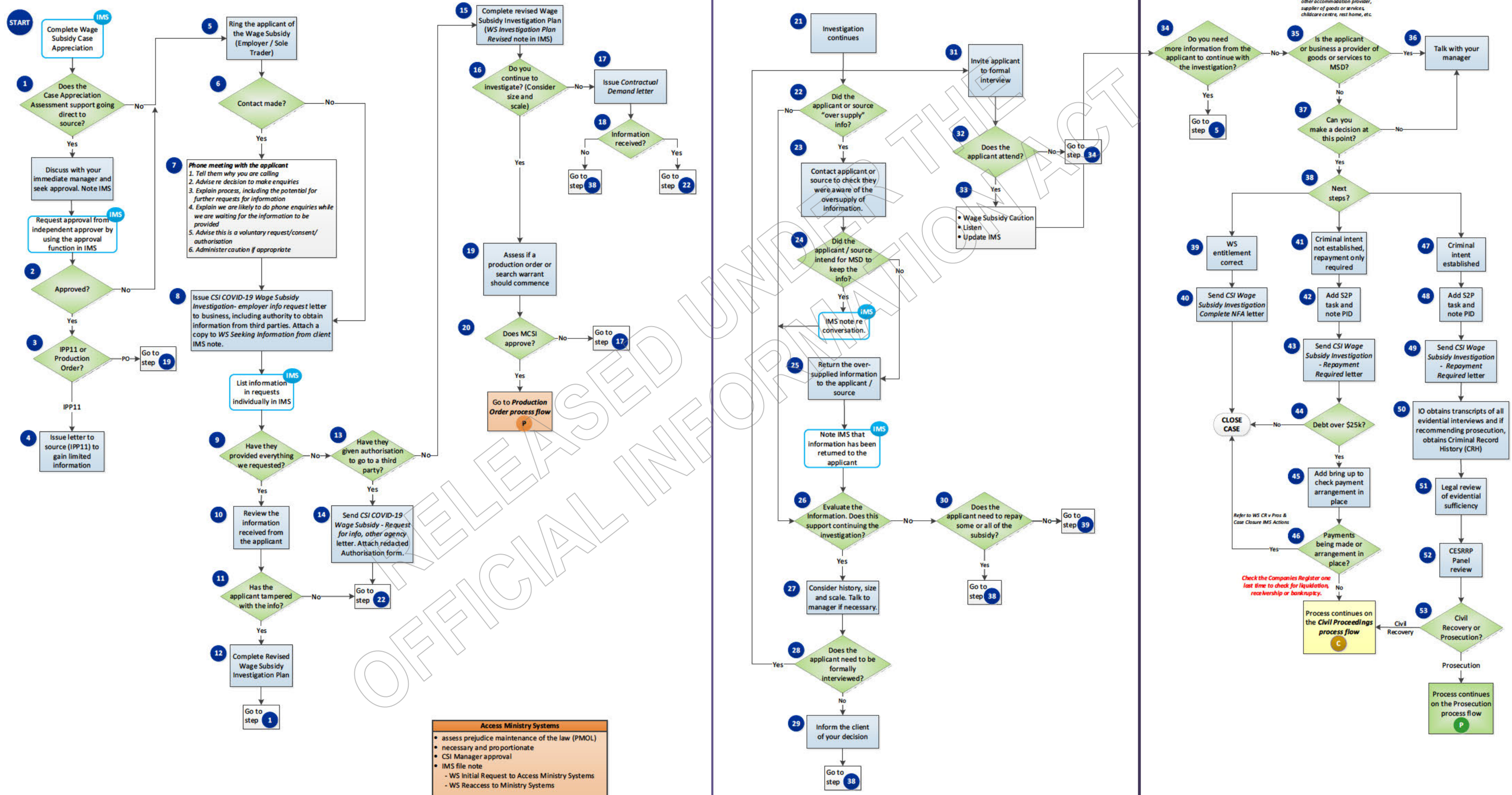
INFORMATION GATHERING

REVIEW THE INFORMATION

MEET WITH THE APPLICANT

CONTINUE WITH THE INVESTIGATION

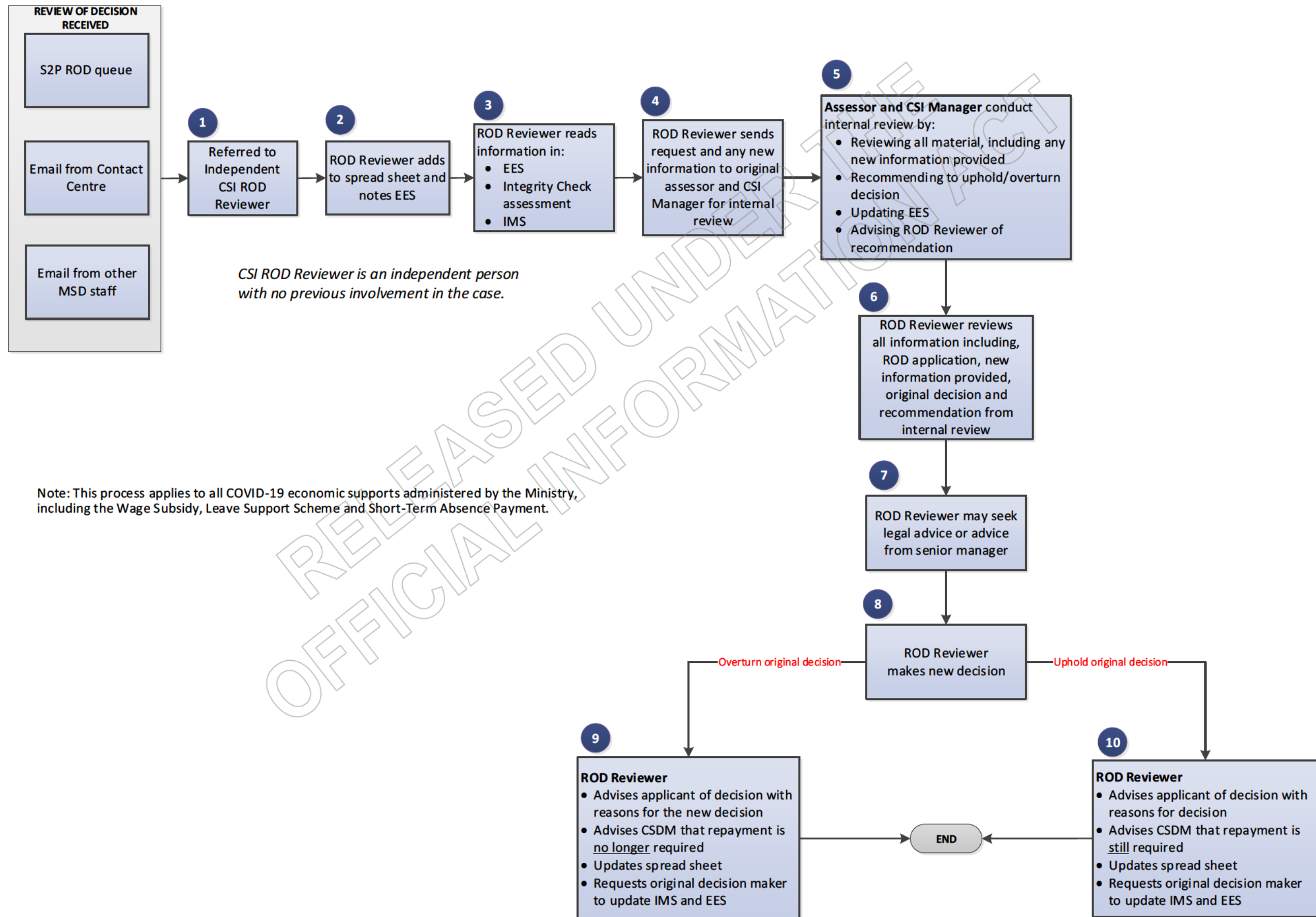
At each touchpoint during the investigation, check the Companies Register to see if the company has gone into receivership or liquidation. If so, you should pause your investigation and go to Step 5 of the 'Insolvency Process Flow'. If you are notified of a liquidation or receivership by CSDM during your investigation, go also to Step 5 of 'Insolvency Process Flow'



Note: This process applies to all COVID-19 economic supports administered by the Ministry, including the Wage Subsidy, Leave Support Scheme and Short-Term Absence Payment.

Wage Subsidy Review of Decision Process – CSI cases

Last updated 19 December 2022



Note: This process applies to all COVID-19 economic supports administered by the Ministry, including the Wage Subsidy, Leave Support Scheme and Short-Term Absence Payment.