

POST OFFICE LIMITED
CRIMINAL ENFORCEMENT AND
PROSECUTION POLICY



AIMS/ OBJECTIVES

The aim of this policy is to:

- Ensure a fair and consistent approach to criminal enforcement decisions by Post Office Limited ("POL") nationally (UK and Northern Ireland)
- Provide POL investigating officers and legal decision makers with guidelines to enable them to reach enforcement decisions in line with government guidance/ standards
- Inform the public and businesses of principles applied by POL which guide enforcement decisions

The objectives of the POL investigations and criminal prosecutions team are to:

- Maintain the integrity and viability of POL services provided to the local community which could otherwise be directly affected or compromised by criminal acts
- Act as a deterrent to theft from POL
- Recover money and assets stolen from POL
- Ensure the safety and security of staff and customers

INTRODUCTION

POL provides a vital national service. Through the provision of around 11,800 post office branches around the UK and Northern Ireland, POL gives local communities access to postal, banking and other important everyday utilities.

The function of POL is to provide affordable and reliable services to the public through its retail operation. POL is mindful that criminal acts against its business (in particular theft, fraud and false accounting) result in increased costs to the taxpayer, impact on its customers and challenges to the viability of services.

POL seeks to reduce criminal acts against its business by:

- Providing advice and education to its employees and sub postmasters
- Fully investigating reported concerns
- Taking enforcement action (either including criminal or civil enforcement and disciplinary action) in appropriate instances

POL investigation and legal teams will ~~work, wherever possible, in consultation/ liaison~~ liaise with the police and other relevant regulatory authorities, as appropriate, to provide a consistent and coordinated approach to criminal investigation and enforcement and follow **POL's Internal Protocol for Criminal Investigation and Enforcement**.

The following government guidance/ standards are formally adopted by POL:

- The Code for Crown Prosecutors
- The Government's Concordat of Good Enforcement

PRINCIPLES OF ENFORCEMENT

Enforcement will be carried out using four guiding principles:

- Our actions will be **proportionate** to the circumstances
- Our approach will be **fair and consistent**
- Our actions will be **transparent**
- Our enforcement will be **focused** on where it is needed most

We will have regard to the Human Rights Act 1998 ("HRA"), the Regulation of Investigatory Powers Act 2000 ("RIPA"), the Police and Criminal Evidence Act 1984 ("PACE") and its codes of practice and the Criminal Procedures and Investigations Act 1996 ("CPIA").

Proportionality means relating enforcement action to the actual offence. Action taken by POL should be proportionate to any impact on the community or environment, either directly or indirectly.

We will:

- Take account of the circumstances and attitude of the individual or business investigated when considering action
- Work with employees and sub postmasters so that they can meet their legal obligations without unnecessary expense
- Consider the extent of breach or harm caused as a result of the offence

Fairness and Consistency of approach does not mean uniformity. It means taking a similar and objective approach in similar circumstances to achieve similar ends but taking into account the particular circumstances of each case. ~~Investigating officers~~ Security Managers investigating matters and legal decision makers will need to take account of many variables – the extent of the offence, the attitude of the individual or business and the history of any previous offending. The consistency and rationale behind decisions on enforcement action is ensured through internal POL procedures including legal advice and sign off.

We will:

- Promote fairness and consistency through information and training to ~~investigating officers~~ Security Managers and legal decision makers
- Monitor enforcement decisions made and any rationale/ reasoning behind decisions

Transparency means ensuring that employees, members of the public and other affected parties (including sub postmasters) are aware, through training, contractual documents and operation manuals what is expected of them and what they should expect from POL. Employees and sub postmasters are aware through contractual documents and operational manuals of the powers of POL investigating officers and what is expected of them, including the importance of maintaining integrity of the service provided and proper accounting to ~~PPOL.O.~~

We will:

- Make this procedure and other relevant operational documentation available on request
- Provide information and advice in plain language
- ~~Translate letters for those whose first language is not English (this is not currently provided but consideration should be given to doing so.)~~
- ~~Provide details of our appeals procedure~~

Focused means ensuring that any criminal investigation or enforcement is focused on individuals or businesses whose behaviour gives rise to the most serious risks associated with offending. Serious does not just mean where large sums of money is stolen or significant harm is done but extends to include wider risks of repeat behaviour and encompasses situations where enforcement will be required to act as a deterrent to others. Investigations will be particularly focused on those in positions of trust and relevant factors considered when implementing a criminal investigation will include

complaints from the public, employees or others (such as POL auditors), alleged seriousness of the actual offending and previous history of offending.

We will focus on:

- Those whose alleged offending affects the elderly and vulnerable
- Individuals or businesses whose offending results in significant loss or harm to POL or the community
- Individuals or businesses whose offending is committed over a long period

ENFORCEMENT OPTIONS

~~POL has a variety of enforcement options.~~

Whilst POL only has the criminal enforcement option of Prosecution (and consideration of confiscation proceedings), it will also consider other actions available to Line Managers, Contracts Managers and Civil Recoveries teams. All decisions and actions will be recorded and considered in the event of a future investigation of the same individual or business and may well impact on a future decision to take criminal enforcement action.

The application of ~~these~~ options available to POL will depend on the impact on the integrity of POL and the services it provides to the community, risks to people or to the environment, the past history and attitude of the offender, the consequences of non compliance and the likely effectiveness of various enforcement options.

In particular, we will consider:

- The seriousness of any offence and extent of harm
- Duration of the offence
- The suspect's age, physical and mental condition
- Any voluntary disclosure or confession made by the suspect
- Previous convictions or evidence of offending
- Any breach of trust
- Other social factors
- Any delays in an enforcement decision being reached

Reference should be made to POL's Internal Protocol for Criminal Investigation and Enforcement for further detail on procedure followed before an enforcement decision is reached.

~~Enforcement options include:~~

ACTIONS AVAILABLE OUTSIDE OF CRIMINAL PROCESS:

- ~~• Informal action – verbal or written advice or warning~~
- ~~• Civil Proceedings~~
- ~~• Simple Caution~~
- ~~• Prosecution~~

These actions to be considered by Line Management/ Contracts Managers and Civil Recoveries Team in liaison with investigations by POL's Investigations and Security team.

Informal Action will usually take the form of letters or reports sent to the offender in the case of a minor offence but can also include verbal warnings. Informal action should be acted upon by the individual or business and in the event they fail to do so, this can result in ~~formal~~ criminal enforcement action being taken.

Examples of when informal action might be appropriate include circumstances where:

- An early admission of guilt (in the case of a minor offence) is made
- The offence is not deemed serious enough to warrant ~~formal~~ criminal enforcement action
- Action taken by the offender to repay or make amends for criminal act

- The past history of the individual or business suggests that informal action will deter future offending

Disciplinary Proceedings may be deemed necessary by POL Management in accordance with POL policies and employment contracts and considered alongside investigations by the Security and Investigations team and criminal or civil enforcement action.

Civil Proceedings will be considered where the seriousness of the offence or the attitude of the offender means that POL does not consider formal action is required either to act as a deterrent or a punishment for criminal behaviour. Civil proceedings can be taken alongside or in place of formal criminal enforcement action and can be used to terminate a contract, recover monies stolen from POL or as financial compensation for other wrongdoing. Where civil proceedings are undertaken in addition to formal criminal action, POL will not seek to recover twice.

~~Simple Caution will be used as an alternative to prosecution. Before a simple caution can be issued there must be evidence of guilt sufficient to give a realistic prospect of conviction if the case were taken to a prosecution and the offender must admit the alleged offence by signing a formal caution form. A simple caution is a serious matter which will influence any future decision should the individual or business offend again. It can be referred to in subsequent court proceedings.~~

A simple caution will be used to:

CRIMINAL ENFORCEMENT:

- ~~Deal quickly with less serious offences~~
- ~~Direct less serious offences away from the Court~~
- ~~Reduce the chances of repeat offences~~

The following options are available following an investigation by POL which warrants further action (see below and POL Internal Protocol for Criminal Investigation and Enforcement).

Prosecution will be brought where the circumstances warrant it and where the alternative enforcement options are considered to be inappropriate. Any decision to prosecute will take account of the criteria set out in the Code for Crown Prosecutors.

There must be:

- Evidence of guilt sufficient to give a realistic prospect of success in criminal proceedings, and
- A prosecution must be deemed in the public interest.

Where there is a realistic prospect of conviction and formal action is in the public interest, circumstances which warrant a prosecution may include:

- Where the alleged offence has resulted in significant losses or impact on POL, its clients and/or the public
- Where the alleged offence involved a flagrant or intentional breach of the law
- Where there is a history of similar offences
- Where the offender has refused to accept wrongdoing despite significant evidence to the contrary
- Where the offender has failed to repay or make amends for any significant wrongdoing

POL will consider the following circumstances when deciding whether or not to prosecute in addition to those above:

- The seriousness and effect of the offence
- The deterrent effect of a prosecution on the offender and others
- Any mitigating factors

The decision to proceed with a prosecution will be taken by the Head of Security of POL, upon legal advice.

Confiscation Orders Proceedings will be only be sought undertaken by POL where prosecution has been deemed appropriate, assets have been identified that can be used to service such an order (or

there is a reasonable belief that such assets exist), prosecution is deemed appropriate and such an order is deemed to be in the public interest. — If confiscation proceedings are undertaken following conviction, a defendant can pay the order voluntarily or else compulsory enforcement action will be taken.

POL will:

- Obtain a restraining order in relation to assets in all criminal investigations where an alleged offence has resulted in a significant loss to POL [I am not sure if this is an appropriate definition — what do we do currently? If we do use, we need to work out how we define "significant loss"] **POL's current trigger point for FI cases is losses over £15K but this is not 'cast in stone' and confiscation can be used for amounts under £15K — restraint is carefully considered and the FI has to be sure that we have a loss, that the defendant has 'benefited from his/her crime, and that there is a 'real' risk of dissipation of an asset.**
- Obtain a Restraint Order where, following an interview under caution, a recommendation to prosecute is made by the Security Manager, evidence is available that a suspect has benefited financially from a crime, assets have been identified as available, there is a concern that without the order assets will be dissipated and there is a lack of a credible offer by a suspect to pay monies back voluntarily.

In the event that monies can be obtained voluntarily, criminal proceedings are discontinued at any stage, restraining orders will be cancelled or an application made to the civil courts (following a default costs order) for a 3rd party debt order to be made, replacing the restraining order. [We need to discuss — this what appears to be currently done — question legality] — **if criminal proceedings are discontinued, POL would simply seek to discharge any restraints at the earliest opportunity — civil 3rd party debt applications were dealt with by Civil Litigation.** or monies are recovered via a compensation order in criminal proceedings or via a civil recovery then a restraint order/ confiscation proceedings will be cancelled/ terminated.

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In determining whether or not confiscation orders/proceedings are appropriate (including restraining the obtaining of restraint orders), POL will consider: **(If POL have a loss, the defendant has benefited and has assets, then POL will seek to pursue confiscation in all FI cases (post-conviction), restraint orders as stated previously have to meet the test of a 'real' belief of dissipation.**

- The seriousness of the offence and financial loss incurred (generally financial losses will be more than £15,000)
- Whether a civil recovery would be more appropriate to obtain monies other factors such as an abuse of trust or vulnerability of victim merit proceedings in cases where losses are less than £15,000
- AnyA voluntary repayment has made or credibly offered by the date of conviction and the attitude of the defendant
- Other recovery proceedings have been deemed more appropriate in the circumstances
- Other mitigation or explanation provided by the defendant which is deemed relevant

APPEALS AND COMPLAINTS

If a business or individual is dissatisfied with the action being taken or the way in which an investigation is handled, they should ask to discuss these concerns initially with the investigating officer's manager. If they remain dissatisfied with the way in which the matter is being progressed POL's complaints procedure should be followed. — ? **(POL needs one, RMG have one and expect similar template)**

Legal proceedings will not normally be suspended whilst a complaint is investigated.

This is without prejudice to any formal appeals mechanism.

ADHERENCE WITH THE POLICY

Investigating officers and legal decision makers must abide with this Enforcement and Prosecution Policy when making all criminal enforcement decisions.

Any departure from the policy must be exceptional, capable of justification and be fully considered by the Head of Security (likely in conjunction with Head of Legal) before a decision is taken, unless it is considered that there is sufficient risk in delaying the decision, under which circumstances the investigating officer must take the most appropriate course of action, as they see fit.

AUTHORISATION

Specific competency levels for investigating officers involved in the decision making process (other than prosecution which must be approved by the Head of Security or Head of Legal) are contained in separate internal protocol will be ensured.

OBSTRUCTION OF INVESTIGATING OFFICERS

POL regards the obstruction of or assaults (physical and/ or verbal) on POL staff whilst lawfully carrying out their duties as a serious matter.

Instances of the above will be referred to the legal department of POL with a view to instigating a full investigation and legal proceedings against the perpetrator.

REVIEW

This Policy will be reviewed periodically at such intervals as is considered appropriate.

Date of Policy Implementation:

Date for Review of this Policy:

Formal approval of policy by:

Signed

Name

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Document 2 ID	file://F:/Client/Client Work/POL - ENforcement POLicy redraft 2 Nov.doc
Description	POL - ENforcement POLicy redraft 2 Nov
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