



POST OFFICE LIMITED

ENFORCEMENT AND PROSECUTION POLICY
FOR ENGLAND AND WALES

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1. INTRODUCTION

- 1.1 Post Office Ltd ("POL") is a public body accountable both to the Government and to Parliament, and ultimately to the general public.
- 1.2 It provides a wide range of vital services to the public through its 11,800 branches across the UK. Because POL's activities provide communities nationwide with access to postal, banking and other essential services, it serves an important public purpose.
- 1.3 An important function of that purpose is to provide affordable and reliable services to the public through its retail operation. Criminal offences against POL's business in particular theft, fraud and false accounting inevitably result in increased cost to the taxpayer, adverse impact on its customers, and they challenge the viability of the services POL provides.
- 1.4 POL is committed to reducing criminal offending against its business in two ways:
 - 1.4.1 Through the establishment and development of a Business Improvement Programme, and
 - 1.4.2 By investigating offences, and by taking such enforcement action as POL considers appropriate in the circumstances of the case.

2. SCOPE

- 2.1 Following its separation from Royal Mail Group on 1 April 2012, POL has retained its investigative and prosecution function. In England and Wales, POL conducts investigative and prosecuting functions.
- 2.2 In Scotland, POL's representative agents report alleged criminal offending to the Crown Office and Procurator Fiscal Service.¹ In Northern Ireland, POL Security Managers report allegations of criminal offending to the Public Prosecution Service.
- 2.3 This policy is intended to explain the approach that POL will adopt in dealing with allegations of crime committed against its business in England and Wales.
- 2.4 This policy is intended to apply equally to POL employees, sub-contractors, contractors, agents and customers as well as to those who have no formal relationship with POL.

¹ The Crown Office and Procurator Fiscal Service recognises POL as a Special Reporting Agency

3. AIMS AND OBJECTIVES

3.1 The general **aims** of this policy are to:

- 3.1.1 Ensure that POL takes a fair, consistent and proportionate approach to criminal enforcement
- 3.1.2 Provide POL decision-makers with guidelines enabling them to reach enforcement decisions, and
- 3.1.3 Inform the public and our commercial partners of the general principles POL will use to guide its enforcement decisions.

3.2 The general **objectives** of this policy are to:

- 3.2.1 Preserve and maintain the viability and integrity of the services POL provides to the public, which criminal activity compromises
- 3.2.2 Deter the commission of criminal offending against POL's business
- 3.2.3 Protect POL's physical and financial assets, and
- 3.2.4 Recover monetary losses and assets resulting from criminal conduct.

4. AVAILABLE ENFORCEMENT OPTIONS

- 4.1 Informal action, disciplinary action and civil action are enforcement options open to POL, and they will be carefully considered before any criminal enforcement action is taken.
- 4.2 The choice of enforcement option will depend on the seriousness of the offending as reflected by (but not limited to) the quantum of the shortage or losses alleged, the particular vulnerability of the victim, the impact of the alleged offending on the integrity and reputation of POL and the services it provides to the community, the past history and attitude of the offender, as well as the likelihood of non-compliance with, and the likely effectiveness or consequences of, the non-criminal enforcement options available.
- 4.3 In particular, therefore, in choosing the right enforcement option, POL will consider the seriousness of the offence, having regard to:
- The culpability of the offender
 - The extent of the harm done
 - The extent of any shortage or losses to POL
 - The particular vulnerability of the victim (e.g. by age, infirmity or physical or mental disability etc.)
 - The duration, pattern and sophistication of the offending
 - The nature and extent of any breach of trust
 - Other public or social factors
- 4.4 POL will also have regard to factors such as:
- The offender's age, physical or mental condition, and his general character and reputation
 - Previous convictions or other evidence of previous offending or default

- Any voluntary disclosure or confession made by the offender
- Any repayment of losses
- Any unreasonable delay in reaching an enforcement decision

4.5 Provided always, where the nature of the offence is so serious or the shortage or loss so substantial that enforcement action other than criminal action is inadequate and might lead to delaying criminal investigation and enforcement, POL will move expeditiously to consideration of criminal enforcement action.

5. ENFORCEMENT ACTION OTHER THAN CRIMINAL ENFORCEMENT ACTION

- 5.1 **Informal Action** will, in the case of a minor offence, usually take the form of a letter or a report sent to the offender but it may also include a verbal warning. The individual or business will be expected to act upon such informal action and, in the event they fail to do so, this may result in criminal enforcement action being taken.
- 5.2 Examples of when informal action might be appropriate include circumstances where:
- The offence is not deemed serious enough to justify criminal enforcement action
 - An early admission of guilt is made
 - Action has been taken by the offender to repay the shortage or loss or otherwise to make amends
 - The past history of the individual or the business suggests that informal action will act as a deterrent against future offending
- 5.3 **Disciplinary Action** may be deemed necessary by POL in accordance with POL policies and employment contracts and considered alongside criminal or civil enforcement action.
- 5.4 **Civil Action** 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.
- 5.5 Civil proceedings may be taken in parallel with, or in place of, criminal enforcement action and may be used to vary or terminate a contract, recover monies stolen from POL or seek financial compensation for other wrongdoing.

Where civil proceedings are undertaken in addition to formal criminal action, POL will not seek to recover twice.

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6. GENERAL PRINCIPLES OF CRIMINAL ENFORCEMENT

- 6.1 Where the decision is made to pursue criminal enforcement, POL will apply the Code for Crown Prosecutors issued by the Director of Public Prosecutions,² as well as the further considerations set out in this policy document. The decision whether to prosecute in any individual case will be taken with due diligence and expedition.
- 6.2 POL will have regard to the Human Rights Act 1998 and the European Convention on Human Rights.
- 6.3 POL will comply with:
- Its disclosure obligations under the Criminal Procedure and Investigations Act 1996 (and the Code of Practice issued thereunder)
 - The Protocol for the Control and Management of Unused Material in the Crown Court
 - The Attorney General's guidelines on Disclosure and on the Disclosure of Digitally-Stored Material
 - The Criminal Procedure Rules and the Criminal Practice Directions
 - The Attorney General's guidelines on the Acceptance of Pleas
- 6.4 Each case will be approached according to general principles of **fairness, consistency** and **proportionality**.
- 6.5 **Fairness and consistency** does not mean a uniformity of approach but adopting a similar approach in similar circumstances to achieve similar ends, but taking into account the particular circumstances of each case.

² Currently the 7th Edition, issued January 2013. Go to www.cps.gov.uk

- 6.6 **Proportionality** means relating enforcement to the offence alleged so that POL enforcement action will be proportionate to the seriousness of the offence, the culpability of the offender, the harm caused by the offending, the impact of the offending on the community and on the services POL provides, and the costs of investigation and prosecution as weighed against the likely outcome.

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7. CRIMINAL ENFORCEMENT ACTION

7.1 **Prosecution** will be brought where:

- 7.1.1 The alternative enforcement options are considered to be inadequate
- 7.1.2 The evidence passes the two-stage test for prosecution set out in the Code for Crown Prosecutors, and
- 7.1.3 The circumstances of the offending are such that prosecution is justified.

7.2 To pass the two-stage test for prosecution set out in the Code for Crown Prosecutors ("**the Full Code test**") there must be:

- 7.2.1 Evidence sufficient to provide a realistic prospect of conviction ("**the evidential stage**"), and
- 7.2.2 The prosecution must be in the public interest ("**the public interest stage**").

7.3 Where there is a realistic prospect of conviction and prosecution is in the public interest, the circumstances that justify a prosecution may include:

- Where the offence is particularly egregious, for instance where the conduct has resulted in a significant or substantial financial shortage or loss
- Where the offence has or is likely to have an adverse impact on POL's business, brand, image or reputation
- Where the victim of the offence was particularly vulnerable (e.g. by age, infirmity or physical or mental disability etc.)
- Where the offence involves a serious breach of trust
- Where the offending (or the concealment of the offending) is sophisticated, involves multiple transactions or was committed over a lengthy period of time

- Where there is a history of similar past offences or misconduct
- Where an innocent party has been falsely blamed or accused

7.4 POL will also consider the following circumstances when deciding whether or not to prosecute:

- The particular circumstances of the offender
- The quantum of the shortage or loss to POL
- Whether or not some or all of the shortage or loss has been (or will realistically ever be) repaid to POL
- The deterrent effect of a prosecution on the offender and on others
- Other factors that may militate against prosecution
- The cost of prosecution relative to the likely penalty on conviction and/or the likely recovery of any shortage or loss

7.5 Once the decision to prosecute is taken, POL will keep the case under continuous review. Where it appears to POL that the case no longer meets the evidential stage of the Full Code test, or concludes that prosecution no longer meets the public interest stage of the Full Code test, then it will discontinue the case without undue delay.

8. DECISION MAKING

- 8.1 The decision to authorise prosecution will be taken by the senior criminal lawyer in the Post Office Legal and Compliance Team ("**POLCT**") acting on advice from external lawyers.
- 8.2 In the event that POL's Head of Security Operations disagrees with the POLCT senior criminal lawyer's decision, POL's General Counsel will make the final decision whether or not to authorise prosecution.
- 8.3 Prosecutions in the Magistrates' Court and the Crown Court will be conducted by POL's external lawyers or appointed agents.
- 8.4 Criminal investigations will be conducted by POL's Security Operations Team in accordance with the Conduct of Criminal Investigations Policy.³
- 8.5 The decision to prosecute will be taken openly and transparently. The decision and the underlying reasons for it will be recorded in writing and retained by POL until the expiry of a period of 6 years following the conclusion of the case.

³ Effective from 29 August 2013

9. RECOVERY: CONFISCATION, COMPENSATION AND COSTS

9.1 POL will in every case seek to recover any shortage or loss resulting from the offender's criminal conduct, as well as the costs of prosecution, subject to the general principles of **fairness, consistency** and **proportionality**.

9.2 In appropriate cases, POL will seek to obtain orders for:

- Restraint against assets owned or controlled by suspects,
- Confiscation under the provisions of the Proceeds of Crime Act 2002,
- Compensation, and
- Costs covering the investigation and prosecution, or
- Any combination of such orders

10. REVIEW

- 10.1 This policy supersedes any previous POL criminal enforcement action or prosecution policy.
- 10.2 This policy will be reviewed annually.

Date of policy implementation:

Date for review of this policy:

Formal approval of policy by:

Signed:

Name:

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