

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 including Northern Ireland)
- Provide POL Security Managers and legal advisers 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 Security 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 including 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 action (including criminal or civil enforcement and disciplinary action) in appropriate instances
- In other instances, handing over investigations to the police to consider enforcement action.

POL investigation and legal teams will 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. 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 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 operation manuals of the powers of POL Security Managers and what is expected of them, including the importance of maintaining integrity of the service provided and proper accounting to POL.

We will:

- Make this procedure and other relevant operational documentation available on request
- Provide information and advice in plain language

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 as well as situations where enforcement is considered likely to have a real deterrent affect on wrongdoing. Serious does not just mean where large sums of money are 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
- Situations where enforcement action is considered likely to have a real deterrent effect on any future wrongdoing

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 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.

ACTIONS AVAILABLE OUTSIDE OF CRIMINAL PROCESS:

These actions to be considered by Line Management/ Contracts Managers and Civil Recoveries Team in liaison with investigations by POL's 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 criminal enforcement action being taken. (For the sake of clarity, Informal Action would be disciplinary action or the like taken under the relevant POL conduct code).

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 criminal enforcement action
- Action taken by the offender to repay or make amends for criminal act (and this will be considered on a case by case basis rather than a specific financial threshold set out here)
- The past history of the individual or business suggests that informal action will deter future offending

Disciplinary Proceedings of POL employees may be deemed necessary by POL Management in accordance with POL policies and employment contracts and considered alongside investigations by the Security 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 criminal enforcement action and can be used to vary/ 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.

CRIMINAL ENFORCEMENT:

The following options are available after 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 and 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 Proceedings will only be 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), and such an order is deemed to be in the public interest.

POL will:

- Obtain a Restraint Order where, following the commencement of an investigation, a recommendation and decision to prosecute is made by the Head of Security, evidence is available that a suspect has benefited financially from a crime, assets have been identified as available, there is knowledge or a reasonable belief that there is a real risk that without the order assets will be dissipated.

In the event that monies can be obtained voluntarily, 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.

In determining whether or not confiscation proceedings are appropriate (including the obtaining of restraint orders), POL will consider:

- The seriousness of the offence and financial loss incurred (generally financial losses will be more than £15,000 but each case should be looked at on its merits)
- Whether other factors such as an abuse of trust or vulnerability of victim merit proceedings in cases
- A voluntary repayment has made or credibly offered by the date of conviction
- 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 Head of Security . If they remain dissatisfied with the way in which the matter is being progressed POL's complaints procedure should be followed.

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

Security Managers and legal advisers 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 and signed off by POL's CFO (as an independent POL Board member) , unless it is considered that there is sufficient risk in delaying the decision, under which circumstances a nominated deputy for POL's CFO will be able to sign off.

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) will be ensured.

OBSTRUCTION OF SECURITY MANAGERS

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