



Post Office Ltd Internal Information  
Investigation Team

# Appendix 1 to P&S 9.1 Proceeds of Crime Act 2002 Investigation Orders

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## Key Accountabilities

<b>Who is accountable?</b>	<b>What do I have to do?</b>	<b>When do I have to do this?</b>	<b>How do I do this?</b>
All members of Post Office Ltd Security	Ensure you comply with these procedures	Ongoing	As detailed within these procedures

# Proceeds of Crime Act 2002 Investigation Orders

## 1. General

**1.1** Gaining an Investigation Order under the Proceeds of Crime Act 2002 (POCA 2002) involves preparing information in support of an application, (this is in effect is a summary of the case written on no more than two sides of A4 paper). It also involves preparing the Order itself. These documents require that specific information is provided. Below is a list of the generic information which must be supplied in the application documents for all Investigation Orders;

- 1.1.1** The name of the person subject of the Confiscation or Money Laundering Investigation.
- 1.1.2** Whether the Order is for a Confiscation or Money Laundering Investigation and if;
  - a)** A **Confiscation Investigation**, the reasonable grounds to suspect that the subject has benefited from criminal conduct, or;
  - b)** A **Money Laundering Investigation**, the reasonable grounds to show the subject has committed a money laundering offence.
- 1.1.3** That the material is likely to be of substantial value to the investigation for the purpose of which it is sought.
- 1.1.4** That the granting of the order is in the Public Interest.
- 1.1.5** That the application is compatible with Human Rights legislation, (proportionate, legal accountable and necessary).

## 2. Production Orders - Section 345 POCA 2002

**2.1** Accredited Financial Investigators (AFI) may use Production Orders to access information which would not ordinarily be supplied to them. This is especially so when information is required from Financial Institutions. Production Orders obtained in Money Laundering Investigations can be for the purpose of obtaining evidence of the offence as well as tracing assets. Prior to making an application authority from a Senior Authorising Officer (SAO) must be obtained. The application is then made to a Judge in the Crown Court. The material subject of the order can include any information held by the institution.

**2.2** A Production Order application must also meet the requirements set out in the Code of Practice issued under Section 377 of POCA 2002 which details that the order should specify;

- 2.2.1** The material required to be produced.
- 2.2.2** Who is believed to be in possession or control of the material.
- 2.2.3** Whether production or access to the material is required.
- 2.2.4** That the information requested is **not** subject to legal privilege or excluded material. (Conveyancing material is not subject to legal privilege as it is classed as a business transaction and as such can be obtained by a Production Order).

**2.3 FIU Production Order Process.** The Financial Investigation Unit (FIU) will undertake the following processes when obtaining Production Orders;

- 2.3.1** Assess the crime and identify potential recovery strategies.
- 2.3.2** Ensure that enquiries, using all available sources of information to determine what relevant evidence or information could be made available to the investigation, are made, such as material found at searches, Equifax checks, Personnel Printouts etc.
- 2.3.3** Ensure that all the information could not be obtained from another source including a Data Protection Act 1998 request or a Banker's Book Evidence Act 1879 Order.

- 2.3.4** Undertake 'Pre' Production Order enquiries with the relevant organisation, such as the Bank or Building Society. These will be made by telephone utilising the banking contact list.
- 2.3.5** Establish details of accounts held or other relevant information, confirm with the intended recipient the time required for documents to be made available and confirm whether the organisation wishes to attend court or be sent a copy of the information statement in support of the application.
- 2.3.6** Obtain authority from the SAO. The SAO retains a copy of the authorisation.
- 2.3.7** Prepare an information statement and copies of the order within a file for Court purposes.
- 2.3.8** Arrange with the applicable Crown Court for the application to be heard. Obtain from them a unique reference number and the name of Judge (where possible). Update the documentation as appropriate.
- 2.3.9** Depending on the requirements of the particular Court, ensure that the documents are lodged accordingly.
- 2.3.10** Attend Court with good knowledge of the information contained within the statement and make the application. If granted ensure that Production Order(s) is signed by the Judge and date stamped.
- 2.3.11** Leave appropriate copies for the Court as required.
- 2.3.12** Send a copy of the Order together with a covering letter to the named organisation(s) either by fax or Special Delivery on the same day that the order is granted.
- 2.3.13** Place a copy of the signed documents in the case file.
- 2.3.14** Update the Financial Investigation Events Log, Policy Log and Document Schedule as appropriate.

### 3. Search and Seizure Warrant – Section 353 POCA 2002

- 3.1** AFI can apply for a Search and Seizure Warrants, however, a Court will not grant a Warrant unless it can be shown;
  - 3.1.1** That a Production Order has not been complied with and there are reasonable grounds for believing that the material sought is on the premises specified in the application, or,
  - 3.1.2** It would be inappropriate to seek a Production Order because it is impractical to communicate with any person against whom the Order might be made, or,
  - 3.1.3** Entry to the premises will be refused unless a search warrant is produced, or,
  - 3.1.4** The investigation would be seriously prejudiced unless an appropriate person is able to secure immediate entry to the premises upon arrival.

- 3.2 FIU Search and Seizure Warrant Process.** The process for obtaining a Search and Seizure Warrant is the same as the process for a obtaining a Production Order as described in Section 2.3 above

### 4. Customer Information Order – Section 363 POCA 2002

- 4.1** A Customer Information Order (CIO) is an order requiring Banks and other Financial Institutions to identify any account or accounts held by a person under investigation and provide customer information. A CIO application is obtained in order to establish if any unidentified account exists. An AFI can obtain a CIO as long as the application is authorised by a SAO. Any application for a CIO must meet the requirements set out in the Code of Practice issued under section 377 of POCA. In particular, the application must specify the financial institutions from which the AFI wishes to obtain customer information.

- 4.2 Information Obtainable from a CIO.** Customer Information is any information relating to whether the person holds, or has held an account or accounts at the specified institution, whether held solely or jointly and should include.

- 4.2.1** The account number or numbers.
- 4.2.2** The person's full name.
- 4.2.3** Date of birth.
- 4.2.4** Most recent and previous address.
- 4.2.5** Date or dates of account opening and/or closing.
- 4.2.6** Evidence of any identity obtained by the Financial Institution required by money laundering regulations.
- 4.2.7** Personal details of joint account holders (name, date of birth and addresses).

**4.3** Complying with a CIO is resource-intensive. Applicants should always consider if the information could be obtained in another way. Applications should only be made as a last resort and when there is good intelligence to suggest a previously unidentified account exists. The AFI must also liaise with the National Crime Agency to see if one has been applied for already and to lodge the request to avoid duplication.

**4.4 FIU Customer Information Order Process.** The process for obtaining a CIO Order is the same as obtaining a Production Order as detailed in Section 2.3 above, excluding points 2.3.4 and 2.4.5.

**4.5** If a Bank or Financial Institution finds an account then it is required to provide customer information. This information can then be used by the AFI to obtain Production Orders under Section 345 of POCA 2002.

## 5. Account Monitoring Order – Section 370 POCA 2002

- 5.1** An Account Monitoring Order (AMO) is an order requiring Banks and other Financial Institutions to provide live intelligence on a suspected bank account(s) for up to 90 days, at any one time, from the date of the order (following which a subsequent application can be made for a further 90 days). An AMO can be obtained by an AFI with authority from a SAO. Again, as with the CIO, this order requires a lot of work by the Financial Institution and as such the AFI must consider if the information can be obtained from another source.
- 5.2** Any application for an AMO must meet the requirements set out in the Code of Practice issued under section 377 of POCA. In particular, the application must specify the Financial Institutions from which the AFI wishes to obtain Account Monitoring.
- 5.3** The Order may require a Bank or other Financial Institutions to provide information relating to;
  - 5.3.1** All accounts held by the person specified;
  - 5.3.2** Accounts of a particular type or description; or
  - 5.3.3** A particular account (or accounts) held.

**5.4 FIU Account Monitoring Order Process.** The process for obtaining an Account Monitoring Order is the same as obtaining a Production order as detailed in Section 2.3 excluding points 2.3.4 and 2.4.5.

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## Glossary

Abbreviation or Term	Meaning
POCA 2002	Proceeds of Crime Act 2002
AFI	Accredited Financial Investigator
SAO	Senior Authorising Officer
FIU	Financial Investigation Unit
CIO	Customer Information Officer
AMO	Account Monitoring Order

## Document Summary

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