
From: Graham C Ward [GRO]
Sent: Thur 01/11/2012 9:54:33 PM (UTC)
To: Dave Posnett [GRO]
Subject: FW: JFSA AND POL Criminal Enforcement Policy

Elv

I am lost for words ,,,,,,, whilst in the pub earlier, Jarnail rang me about this very subject and I we spoke for about 15 mins (presumably he either didn't understand what I was on about or didn't get the answer he wanted to hear !!)personally I think these issues are for the SLT, what are your views ?

But my answer would be as follows;

“As things stand we are a public body with responsibility for public money. We currently have a prosecution policy & are recognised by the Home Office as a non-police prosecuting authority with PACE trained investigators and our own Legal Team (although we currently outsource to Cartwright King). Following a successful conviction we robustly seek to recover monies stolen via Proceeds of Crime Act (POCA) 2002 confiscation proceedings.

I can only reiterate what I have said below and as far as I'm aware, it is POL's policy to recover money in all cases where we have suffered a loss, which will include seeking compensation orders where there are no POCA proceedings and seeking confiscation orders where POCA has been instigated.

I do not believe we will easily be able to provide stats to support which cases we have been awarded compensation orders for (i.e. non POCA), as the Casework spreadsheet does not have a column to record such information. A trawl of recently closed case files where we have prosecuted may provide some details. However Dave and I have been recording details of cases where we have been awarded confiscation orders.

As you will be aware the Late Account team will also be involved in recovery using civil action to pursue repayment of losses”.

I could waffle on but I think we are flogging a dead horse, I get the impression there is a strong desire from the powers that be, to water down our approach to prosecution & recovery, a sad, short-sighted and disastrous move if I'm right !!!!!

Good Night

From: Jarnail A Singh
Sent: 01 November 2012 17:00
To: Graham C Ward; Dave Posnett
Cc: Dave Pardoe; Andy Hayward
Subject: FW: JFSA AND POL Criminal Enforcement Policy

Graham /Dave can I have your views please to Marys email below.
Thanks

Jarnail Singh | Criminal Lawyer



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From: Lawrence, Mary GRO

Sent: 01 November 2012 16:57

To: Jarnail A Singh; Roff, Sally

Subject: RE: JFSA AND POL Criminal Enforcement Policy

Thanks Jarnail. I think you were going to provide details of whether you actually did seek compensation orders and the success rate? This is helpful background but I am not clear whether this is then an instruction provided to Counsel in each and every case / whether this is a strict policy at POL or if this is just Graham's view?

The further drafts will be provided by close of play tomorrow as requested

Mary

Mary Lawrence

Associate (Solicitor Advocate All Courts) - Claims Solutions

DAC Beachcroft LLP

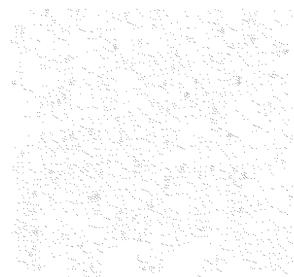
T: GRO
M:

From: Jarnail A Singh GRO

Sent: 01 November 2012 16:49

To: Roff, Sally; Lawrence, Mary

Subject: FW:JFSA AND POL Criminal Enforcement Policy



Dear Sally and Mary

Thank you for your kind help and assisting with the JFSA AND poL criminal Enforcement policy documents as requested I enclose POL approach to compensation from Graham Ward our financial investigator.


Sally/Mary how are getting on with the drafts are we on course for tomorrow.


Thank you.


Jarnail Singh | Criminal Lawyer

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From: Andy Hayward
Sent: 01 November 2012 16:01
To: Jarnail A Singh
Subject: FW: COMPENSATION

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From: Graham C Ward
Sent: 01 November 2012 14:29
To: Andy Hayward
Cc: Rob King; Dave Pardoe
Subject: COMPENSATION

Andy

As discussed

Compensation should be sought post-conviction for all non POCA 2002 cases, where POL has incurred a loss. (At the moment the FI trigger for involvement is >£15K). Once a compensation order has been made by the court, then the defendant owes POL that amount of money and has to pay up within the timescales. However unlike POCA 2002, compensation orders have "no teeth" and enforcing these orders is time consuming and in some cases ineffective, ending up with defendants paying minimal monthly instalments over a pro-longed period of time.

In POCA 2002 cases, Section 13(5)&(6) of POCA covers the issue of compensation but in summary, the court can confiscate the defendants assets to the value of the benefit figure **and** also compensate the victim, so for example, if a Subpostmaster is convicted of the Theft of £50K and has sufficient assets, the court could make a confiscation order for £50K and make a further compensation order for £50K which is awarded to the victim, in effect a 'double whammy'. In reality and in all the cases I have dealt with, the Post Office will only seek compensation 'out of' the confiscation order, but this matter is decided by the Judge. It is crucial at these confiscation hearing to ensure that the Post Office are awarded compensation from the Confiscation Order.

Within the Prosecution Section 16 confiscation statement, Paragraph 13.1 (copied below) details the effect of Compensation on Confiscation

13.1 The effect of section 13(5) of the Act permits the court to make a compensation order under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 as if a confiscation order had not been made. If the defendant cannot pay both, compensation can be recovered from sums paid in satisfaction of the confiscation order.

Hope this helps

Regards

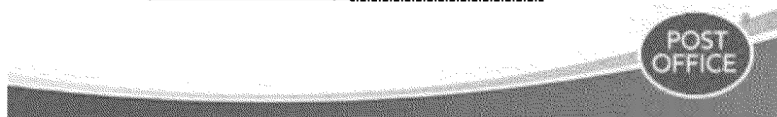
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