

CODE OF PRACTICE ON INVESTIGATORY POWERS FOR CIVIL FORFEITURE

*Issued under section 110 of the Forfeiture of Assets in Civil Proceedings
(Bailiwick of Guernsey) Law, 2023*

March 2024

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Code of Practice On Investigatory Powers for Civil Forfeiture

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(Bailiwick of Guernsey) Law, 2023*

Officers must be aware of their mandatory obligations under the legislation and act in accordance with those duties. This is an absolute requirement regardless of any interpretation of this Code or any other document or guidance.

INTRODUCTION

1. The purpose of this Code is to guide law enforcement officers in the exercise of their functions when conducting investigations under Part V of the Law. This Code should not be regarded as a complete or authoritative statement of the law. Only the courts can give an authoritative interpretation of the legislation, and the contents of this Code may be affected by subsequent judicial decisions and changes to the legislative provisions referred to.
2. In this Code, references to sections are to sections of the Law unless otherwise stated.

Definitions and application

3. The following table explains the meaning of abbreviations and terms used in this Code:

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| Account monitoring order | See section 97 |
| Advocate | An Advocate of the Royal Court (but see paragraph 178 of this Code) |
| Appropriate adult | See paragraph 191 of this Code |
| Associated property | See section 6 |
| Child | Person under 18 years of age |
| Civil forfeiture investigation | See section 76 |
| Customer information order | See section 94 |

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|---------------------------------|---|
| Designated property | Cash and various types of assets: see section 34 |
| Detained property investigation | See section 75(b) |
| Disclosure order | See section 91 |
| Executing officer | The officer executing a search under a search and seizure warrant issued under section 85 |
| Financial services business | "Financial services business" within the meaning of section 144(1); see paragraph 147 of this Code |
| Frozen funds investigation | See section 75(c) |
| The Law | The Forfeiture of Assets in Civil Proceedings (Bailiwick of Guernsey), 2023 ¹ |
| Officer | See paragraph 7 of this Code |
| Order to grant entry | See section 81 |
| Production order | See section 79 |
| Qualified accountant | See paragraph 179 of this Code |
| Relevant investigation | Civil forfeiture investigation, detained property investigation or frozen funds investigation – see sections 75 and 76 and paragraph 5 of this Code |
| Relevant order | A production order, an order to grant entry, a disclosure order, a customer information order or an account monitoring order: see section 99 |
| Search and seizure warrant | See section 85 |
| Senior officer | "Senior officer" within the meaning of section 139 |

¹ Order in Council No. VI of 2023.

| | |
|------------------------|--|
| PPACE | The Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 ² |
| Recoverable property | See Schedule 1 to the Law |
| Vulnerable interviewee | See paragraph 190 of this Code |

4. Unless the context requires otherwise, other expressions used in this Code have the meanings given to them in the Law.
5. This Code of Practice is issued in connection with the exercise of functions conferred on police officers by Part V of the Law. This Code applies to the following types of investigations ("**relevant investigations**") -
- civil forfeiture investigations³;
 - detained property investigations⁴; and
 - frozen funds investigations⁵.
6. This Code of Practice is issued by the Committee for Home Affairs under section 110. It applies to all actions undertaken by officers as part of a relevant investigation, notwithstanding that the investigation may have begun before the commencement of the Law.
7. This Code applies to "**police officers**" within the meaning of the Law, namely the following persons⁶ (referred to as "**officers**" throughout this Code) exercising functions in relation to a relevant investigation -
- a member of the salaried police force or of the special constabulary of the Island of Guernsey;
 - a member of any police force which may be established by the States of Alderney or a special constable appointed under section 47 of the Government of Alderney Law, 2004;
 - the Constable of Sark, the Vingtenier, an Assistant Constable of Sark or a special constable appointed under section 54 of the Reform (Sark) Law, 2008;

² Order in Council No. XXIII of 2003; this enactment has been amended.

³ Section 75(a).

⁴ Section 75(b).

⁵ Section 75(c).

⁶ Definition of "police officer" in section 144(1).

- a customs officer, where the officer has reasonable grounds for suspecting that the unlawful conduct (to which the property concerned relates) relates to an "**assigned matter**" (see paragraph 27);
 - the Director of the Economic and Financial Crime Bureau;
 - a member of the Financial Intelligence Unit; and
 - a designated person under the Economic and Financial Crime Bureau and Financial Intelligence Unit (Bailiwick of Guernsey) Law, 2022⁷.
8. Part V of the Law also confers functions on His Majesty's Procureur but His Majesty's Procureur's functions are not subject to this Code.
9. The powers of investigation dealt with by this Code are the powers relating to -
- production orders;
 - orders to grant entry;
 - search and seizure warrants;
 - disclosure orders;
 - customer information orders; and
 - account monitoring orders.
10. The expectation is that the provisions of this Code will apply to all searches carried out under this Code. However, any decision not to follow this Code should be carefully considered and noted.
11. Where an officer fails to comply with any provision of this Code, the officer would not, by reason only of that failure, be liable to any criminal or civil proceedings.
12. This Code is admissible as evidence in criminal or civil proceedings and will be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant⁸.
13. This Code should be made available for reference by officers exercising the functions and by members of the public. In particular, it should be made available to the public online on a website. Law enforcement agencies staffed by officers who can exercise

⁷ Order in Council No. XII of 2022; this enactment has been amended.

⁸ Section 133(2).

the relevant powers should also make arrangements for the Code to be available at their public offices (if any).

14. If an officer is also exercising an additional and separate function or power, for example, a search for cash or other designated property under sections 35 to 38, the officer should have regard to any relevant code in relation to the exercise of those functions or powers.
15. Officers should be aware of the legislation and detail of the particular provisions under which they operate. They should seek legal advice and/or guidance where necessary in advance of using the powers.

Use of powers

16. The rights to respect for private and family life and the peaceful enjoyment of property under the European Convention of Human Rights ("**ECHR**") are safeguarded by the Human Rights (Bailiwick of Guernsey) Law, 2000⁹. Powers of investigation may involve significant interference with the privacy and property of those whose premises are searched, on whom personal information is obtained, or whose personal information, material or documents are seen and/or seized. The powers therefore need to be fully and clearly justified before they are used.
17. The use of powers which impact upon individuals' rights should be proportionate to the outcome being sought. In particular, those exercising the powers should consider at every stage whether the necessary objectives can be achieved by less intrusive means. Where appropriate, this may be by approaching the potential respondent to ascertain whether they will provide the required information without the need for a court order or to give them prior notice that an application is to be made. The giving of prior notice of an application may mean that the respondent is ready to comply and allows them the opportunity to make representations about the detail of the order or notice due to the nature of the investigation or what they will be required to produce. Officers should consider the operational impact of approaching the potential respondent, to ensure that it does not prejudice the investigation. Potential respondents should be warned that it would be an offence to make a disclosure which is likely to prejudice the investigation or to do other things that fall within the offence in section 78.
18. In all cases, those exercising the powers should exercise them fairly, courteously, responsibly, respectfully, without unlawful discrimination and in accordance with any statutory duties placed on them. For example, a service provider (which would include agencies employing officers) must not discriminate against, victimise or harass another person, under section 28 of the Prevention of Discrimination (Guernsey) Ordinance, 2022¹⁰ when exercising powers. The following are "**protected grounds**"¹¹

⁹ Order in Council No. XIV of 2000; this enactment has been amended.

¹⁰ Ordinance No. XVIII of 2022; this enactment has been amended.

¹¹ See sections 1 to 5 of the Prevention of Discrimination (Guernsey) Ordinance, 2022.

in relation to which discrimination (or victimisation or harassment) is prohibited: disability, race, carer status, sexual orientation, religion or belief. In addition, the Human Rights (Bailiwick of Guernsey) Law, 2000¹² prohibits interference with the enjoyment of rights and freedoms set out in the ECHR on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

19. When considering a search (or authorising one), an officer should consider whether to carry out a public impact assessment. Any public impact assessment should be included in an application for a warrant, and any operational order attached to a warrant. Where a law enforcement agency other than the Island Police Force carries out a search, the Chief Officer of Police should be notified beforehand if practicable, and where this is not practicable, should be notified as soon as possible thereafter. Similarly, the Constable or the Vingtenier should be notified before any search (by any agency) is carried out in Sark where practicable, and where this is not practicable, should be notified as soon as possible thereafter.
20. The officer should consider whether carrying out a public impact assessment or notifying any person for the purposes of paragraph 19 of this Code could jeopardise an ongoing wider operation or investigation. In such circumstances, it may not be advisable.
21. An officer should take special care and have particular regard to an individual's vulnerabilities in responding to an order made in connection with the investigation or a search and seizure warrant. This is particularly relevant in the case of a child or persons with a mental or physical disability. Officers should have regard to the need to safeguard and promote the welfare of all persons under the age of 18 years in compliance with obligations under Article 3 of the UN Convention on the Rights of the Child.
22. A refusal by a person to allow a search of premises or a vehicle may in some instances constitute an offence, including but not limited to obstruction of an officer in the exercise of a power conferred by the Law or acting under the authority of a warrant¹³. This would be a criminal matter and is not an issue for or subject to this Code. Officers should be aware of other legislation and codes applicable in these circumstances.
23. Applications for a production order, an order to grant entry, a disclosure order, a customer information order or an account monitoring order ("**a relevant order**"), or a search and seizure warrant, for the purposes of a civil forfeiture investigation, detained property investigation or frozen funds investigation are made to the Bailiff.
24. Before the Bailiff may grant any of the relevant orders or warrants sought, the statutory requirements particular to that order or warrant need to be met. Therefore, before applying for an order or warrant, the officer needs to be satisfied that those

¹² Order in Council No. XIV of 2000; this enactment has been amended.

¹³ E.g. section 114.

requirements are fully met and be aware of the jurisdiction of the Bailiff and jurisprudence of any relevant courts¹⁴.

25. Officers should be aware of the definition and scope of the different types of investigations under Part V, and in this regard should have particular reference to sections 75 and 76. They must be satisfied that the statutory requirements are fulfilled in relation to the type of investigation. They should also be aware of the limits to some of the individual powers in relation to the different investigations.

GENERAL REQUIREMENTS

Limitations for customs officers

26. A customs officer may exercise functions under Part V only if the officer has reasonable grounds for suspecting that the unlawful conduct (to which the property relates) relates to an **"assigned matter"**¹⁵.
27. An **"assigned matter"** is any matter in relation to which the Chief Revenue Officer is required to perform any duties under any enactment, and these enactments include-
- the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972¹⁶;
 - the Import and Export (Control) (Guernsey) Law, 1946¹⁷;
 - the Export Control (Bailiwick of Guernsey) Law, 2006¹⁸.
28. However, this is not an exhaustive list of assigned matters.

Reasonable grounds for suspicion

29. All officers should recognise that investigations are more likely to be effective and legitimate and more likely to secure public confidence when their reasonable grounds for suspicion are based on a range of objective factors. The overall use of these powers is more likely to be effective when up-to-date and accurate intelligence or information is communicated to officers and they are well informed about local crime patterns. Senior officers have a duty to ensure that those under their command who exercise search powers have access to such information, and the officers exercising the powers have a duty to acquaint themselves with that information. Officers should therefore

¹⁴ This may include courts in the UK, in connection with equivalent provisions in the Proceeds of Crime Act 2002.

¹⁵ **"Assigned matter"** is defined in section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972.

¹⁶ Ordres en Conseil Vol. XXIII, p.573; this enactment has been amended.

¹⁷ Ordres en Conseil Vol. XII, p. 332; this enactment has been amended.

¹⁸ Order in Council No. XIV of 2007; this enactment has been amended.

be able to explain the basis for their suspicion by reference to intelligence or information about, or some specific behaviour by, the person concerned.

30. Whether there are reasonable grounds for suspicion will depend on the circumstances in each case. There should be some objective basis for that suspicion based on facts, information and/or intelligence. The officer should take into account such factors as how the individual, premises or vehicle were identified, previous intelligence regarding the person(s), vehicle(s) or premises, previous law enforcement involvement with the person(s), vehicle(s) or premises, and suspected links with criminal activities, whether in the Bailiwick or elsewhere.
31. Reasonable suspicion can never be supported on the basis of personal factors alone without reliable supporting intelligence or information or some specific behaviour that provides an objective basis for that suspicion. For example, a person's race or religion could not be used, alone or in combination with other factors as the reason for establishing suspicion. Reasonable suspicion could not be based on generalisations or stereotypical images or categories of people being more likely to be involved in criminal activity.
32. Reasonable suspicion should normally be linked to accurate and current intelligence or information. It can sometimes exist without specific information or intelligence and on the basis of some level of generalisation stemming from the behaviour of a person. However, reasonable suspicion could not be founded retrospectively. Officers should be able to explain the basis for their suspicion by reference to intelligence or information about, or specific behaviour by, the person concerned.
33. In respect of each order or warrant to be granted, there is a statutory requirement that there must be reasonable grounds for believing that the material or information is likely to be of substantial value (whether or not by itself) to the investigation. The officer must be satisfied that the material or information will progress the investigation.
34. There is also a statutory requirement that there must be reasonable grounds for believing that it is in the public interest that the material or information is obtained or accessed by the officer. The officer must make sure that the public interest in obtaining the order outweighs the disadvantages to the person against whom the order is being made. For example, an application for an account monitoring order against a bank should not normally be sought unless the officer considers that this may lead to the identification of monies greater than the anticipated cost to the bank in complying with the order¹⁹, or that the officer, having regard to the benefit likely to accrue to the investigation, believes that it is in the public interest for account information to be provided. The officer must be satisfied that all of these statutory requirements are satisfied before making the application.

¹⁹ The officer is under no obligation to divulge the anticipated costs.

35. When applying for a discharge or variation of a relevant order, the Law requires an officer of the same (or higher rank) as the officer who applied for the order to make the application²⁰.
36. However, an officer should also, where practicable, obtain internal authorisation in respect of applications for a relevant order or a search and seizure warrant. This means the authorisation of a senior officer within the law enforcement agency for which the officer works before making an application²¹.

Action to be taken in making an application

37. All of the applications for the powers of investigation may be made to the Bailiff in chambers without notice to the other parties. In deciding whether an application should be made without notice, the officer should consider the benefit of not holding the proceedings after giving notice to all parties. An obvious and common reason would be so as not to alert the individual(s) connected to an investigation that it is ongoing. On notice proceedings might enable the person to move material or information and thereby frustrate the investigation. However, where an order is directed at a financial services business (which would be the respondent), the business should normally be notified of the intention to make an application for an investigation – the application hearing could then be held in the presence of, or by giving notice to, the business concerned.
38. Officers should familiarise themselves with any mandatory requirements or alternative methods under any Rules of Court made under the Law.
39. Officers should familiarise themselves with any requirements for each order or warrant under the Law, but the following should be included in any application for an order or warrant -
 - (a) the name of the person who is under investigation or (if possible) who holds or owns the property which is under investigation, and confirmation that any information sought is for the purposes of the investigation. If the application is for an order against a different person or property to the main focus of the investigation, they should also be named or specified in the application and there should be an explanation of the connection to the investigation;
 - (b) the grounds on which the application is made; and
 - (c) confirmation that none of the material or information sought is excluded material²² or subject to legal professional privilege²³ (with the exception that a lawyer may be required to provide the name and address of their client under

²⁰ Section 101.

²¹ Unless the officer is himself or herself a senior officer.

²² See section 140.

²³ See section 141.

a disclosure order²⁴). This does not apply to customer information orders and account monitoring orders as the type of information requested should not be that which would come within legal professional privilege or excluded material.

40. The information and evidence produced in support of an application should show that there are reasonable grounds for suspicion directly relating to the relevant matter under investigation. Officers should seek to limit the scope of what they request in an application to matters directly relevant to their investigation. Officers should be aware that their application and any information and evidence produced in its support will be subject to scrutiny by the Bailiff.
41. Where information appears to justify an application, the officer should take reasonable steps to check the information is accurate, recent, and not provided maliciously or irresponsibly. An application may not be made on the basis of information from an anonymous source if corroboration has not been sought.
42. Where there is any sensitive information and there are concerns that disclosure would create a real risk of serious prejudice to an important public interest, legal advice should be sought about the need for disclosure of that information. There may be the possibility of a public interest immunity application to the court so that the sensitive information need not be disclosed. The officer should be in a position to deal with any questions the Bailiff may have about the accuracy of the information provided or any other related matters.
43. The officer applying should be in a position to satisfy the Bailiff that they are an officer who may apply for the order or warrant²⁵.
44. Officers should seek reasons (if not already given) from the Bailiff for the grounds on which a decision is made, whether or not an application for an order or a warrant is approved or rejected.

Action to be taken in serving an order or executing a warrant

45. In all cases, the investigatory powers should be exercised fairly, courteously, responsibly, with respect for the persons and property of those concerned and without unlawful discrimination. Service should be effected in accordance with section 136 where practicable.
46. In deciding the method of service of the order or (in the case of a disclosure order or a customer information order) notice, the officer should take into account all the circumstances of the investigation, including the possible need to prove that service was effective, and identifying the person or body on whom the order or notice is

²⁴ Section 93(2).

²⁵ For example, this could be a warrant card or documentation confirming the status of the officer.

served. Search and seizure warrants are executed by an officer²⁶ who should also have regard to these matters when executing the warrant.

47. When serving the order or notice under the order or executing a warrant, a covering letter should be provided which includes the following information (unless it is already included in the order, warrant or the notice) -
- the name of the person who is the subject of the order, notice or warrant or the name by which they are known;
 - a warning in plain language that failure without reasonable excuse to comply with the requirement may be an offence and could result in prosecution or lead to contempt of court proceedings;
 - in the case of a relevant order, a statement setting out the effect of section 100(1) and (4); namely, a warning given in plain language that failure without reasonable excuse to comply with the requirement, or knowingly or recklessly providing a false or misleading statement for the purpose of purported compliance, may be an offence and could result in prosecution;
 - a statement that the warning given neither constitutes a criminal caution nor has the consequences of one;
 - a statement to the effect that disclosure of information about the investigation or falsifying, concealing, destroying or otherwise disposing of, or causing or permitting the falsification, concealment, destruction or disposal of documents which are relevant to the investigation may be an offence under section 78 (offences of prejudicing investigation) punishable by up to five years' imprisonment;
 - a general description of the investigation in connection with which the requirement is made (it is not necessary to specify the name of the person or property subject to the investigation on the order, although this information should be given to the Bailiff as part of the application process);
 - that the subject of the order, warrant or notice should seek legal advice or ask the officer about any doubts or concerns they may have, or for guidance on complying with the order, warrant or notice; and
 - the right to apply for a variation or discharge of the order or notice (not applicable in search and seizure warrants).
48. The person should also be informed that if anyone contacts them about the investigation they should report this to the officer.

²⁶ Section 85(4).

49. When serving a notice under a disclosure order or a customer information order, the officer should inform the person of the person's right to refuse to comply with any requirement imposed on them unless the officer has, if required to do so, produced evidence of the officer's authority to issue the notice²⁷. The evidence of the authority could include the order itself.
50. Where it appears to the officer that the recipient of an order, warrant or notice has difficulty in reading or understanding English, the officer should attempt to serve a copy of the order, warrant or notice on a person known to the recipient who, in the view of the officer, can explain or translate it. If that is not practicable, the officer should serve the order, warrant or notice and attempt to ensure that the person understands what has occurred (for example by serving a multi-lingual explanation or engaging an interpreter or translator).
51. Section 100(1) and (2) provide that it is an offence if, without reasonable excuse, a person fails to comply with a requirement imposed by a relevant order. Section 100(4) provides that it is an offence to knowingly or recklessly make a false or misleading statement in purported compliance with a relevant order. Relevant orders are also treated as orders of the court against the named person and therefore may attract contempt of court proceedings if they are not complied with.
52. What in law amounts to a reasonable excuse will depend on the facts of each particular case and will be a matter for decision by a court. However, the fact that a person has already been questioned in connection with the same or a connected investigation, that the question relates to activities outside the jurisdiction or that a truthful answer to a question would tend to incriminate the interviewee or some other person is unlikely, in itself, to amount to a reasonable excuse.
53. No document may be removed or accessed and no information sought which is subject to legal professional privilege²⁸ (with the limited exception in respect of a disclosure order)²⁹. A respondent has the right to withhold material and information sought which is subject to legal professional privilege³⁰. The definition of legal privilege evolves through case law, and legal advice should be sought where required on the scope of legal privilege. The current case law broadly defines two categories of legal privilege -
- the first is legal advice privilege which attaches to communications passing between lawyer and client created for the purpose of giving and receiving legal advice;

²⁷ Enforcement agencies might also consider bringing contempt of court proceedings where there is a failure to comply with a disclosure order or a customer information order.

²⁸ Sections 82, 87 and 93(1).

²⁹ Section 93(2)

³⁰ Section 141.

- the second is litigation privilege which attaches to communications and documents which come into existence for the sole or dominant purpose of either giving or obtaining legal advice with regard to contemplated litigation or collecting evidence for use in litigation.

However, such communications made in the furtherance of a criminal purpose are not privileged.

54. Where legal professional privilege is asserted in respect of material or items, the executing officer may consider whether it is appropriate to use the 'seize and sift' powers under section 18 of PPACE (additional powers of seizure), or refer the matter to independent counsel. Independent counsel may be present either by virtue of the warrant or with the agreement of the occupier.
55. None of the powers of investigation permit access to excluded material. "**Excluded material**" in the Law³¹ has the same definition as "**special material**" in section 25 of PPACE and includes journalistic material and medical records.
56. Aside from the legal privilege and excluded material provision, requirements for information made under the powers of investigation take precedence in spite of any restriction on the disclosure of information, however imposed. They therefore take precedence over any contractual duties of confidentiality and the common law duty of confidence³².

Action to be taken on receiving an application for an extension of a time limit

57. The officer sets the time limit for replies to the notices issued under disclosure orders and customer information orders. The time limits should be reasonable in the circumstances of the case. Where the subject of one of those orders asks for more time to comply, the officer should carefully consider the request. When a decision has been made, the officer should set this out and the reasons for the decision in a letter to the subject. The circumstances in which it would be suitable for officers to consider an extension will vary from case to case but may include the need to obtain legal or other professional advice, difficulty in retrieving the requested information and/or documents and unavailability. The letter conveying the officer's decision should normally be served in the same manner as the original notice.
58. Where an Advocate acts on behalf of the subject of the order and makes the application for an extension of time, the letter should be served on the Advocate and may also be served on the subject.
59. Time limits for compliance with a production order and an account monitoring order are expressly set out in the relevant order – see sections 79(4) and 97(5) and (6). Therefore, the respondent to the order needs to apply to the Royal Court for a

³¹ Section 140.

³² Section 103.

variation of the order. If the officer receives a request for an extension of the time limit to comply with a production order or an account monitoring order, they should direct the subject of the order to the Royal Court. An officer should request a reasonable time limit when making their application for a production order or an account monitoring order in the first place. The officer should liaise, where possible, with the subject of the order when seeking a time period for compliance in order to minimise applications to the court for extensions of time.

Record of proceedings

60. The officer should keep or cause to be kept a written record of the exercise of the powers conferred by the provisions of Part V of the Law.
61. The written record should include:
 - a copy of the order or warrant and copies of notices given under an order;
 - a copy of the application for the order or warrant;
 - the date on which the order or notice was served together with any proof of service or the date on which the warrant was executed;
 - the date of receipt of, and reason for, any request for an extension of the time allowed to comply with the order or notice;
 - the decision in respect of any such request and the date on which it was notified to the subject of the order or notice, or their Advocate;
 - the date and place that the information or documents were received in response to the order; and
 - a copy of any receipts provided in accordance with the provisions of this Code.

Retention of documents and information

62. If documents, material or information are provided which were not required to be provided under the terms of the order or notice, the document, material or information should not be taken into account for the purposes of the investigation and it should be returned to the person who provided it. Similarly any copies made of such information or material which were not required to be provided should be returned or destroyed, and a record made of any return or destruction.
63. Officers should follow established procedures on the retention and return of documents, material and information. Intelligence that arises during the officer's investigation may be passed to other law enforcement bodies or agencies, including the Revenue Service (provided the officer is satisfied that there is a legal basis in place

either in statute or common law for the passing of information between those bodies for that purpose).

Variation and discharge applications

64. Where an officer applies to the Royal Court to vary or discharge an order under Part V³³, the officer should, as far as practicable, follow the same procedure as for the original application.
65. There is no requirement for the same officer to make the variation or discharge application but if it is a different officer (of the same or higher rank in the relevant law enforcement agency), that officer should be in a position to explain the genuine change of circumstances. The respondent should be notified of an application to vary or discharge an order and be given the opportunity to be represented at the hearing³⁴.

PRODUCTION ORDERS

66. Officers should familiarise themselves with the *Introduction* and *General Requirements* parts of this Code which set out general matters relating to relevant orders and warrants.

Definition

67. A production order is an order of the Bailiff which may be made and served on any person or institution, for example a financial services business, requiring the production of, or allowing access to, material within the time period specified in the order³⁵. This might include documents such as bank statements.

Persons who can apply for a production order

68. An application must be made by an officer.

Statutory requirements

69. An application for a production order must be made to the Bailiff and must state that³⁶-

³³ Under section 101, His Majesty's Procureur can also apply for a variation or discharge of the order.

³⁴ Unlike an application for an investigation order, both the applicant and respondent are notified of an application for a variation or discharge of the order. They would both have the opportunity to be represented before the Court.

³⁵ Section 79(4)

³⁶ Sections 79 and 80.

- a person specified in the application is subject to a civil forfeiture investigation; or that property specified in the application is subject to a civil forfeiture investigation, detained property investigation or frozen funds investigation;
- the order is sought for the purposes of that investigation, and concerns material (or material of a description) specified in the application and that a person specified in the application appears to be in possession or control of the material;
- there are reasonable grounds for believing that the person specified in the application as appearing to be in possession or control of the relevant material is in possession or control of it;
- there are reasonable grounds for believing that the material is likely to be of substantial value (whether or not by itself) to the investigation for which the order is sought;
- it is in the public interest for the material to be produced, having regard to the benefit likely to accrue to the investigation if the material is obtained, and the circumstances under which the person specified in the application as appearing to be in possession or control of the material holds it;
- in the case of a civil forfeiture investigation, there are reasonable grounds for suspecting that -
 - the person specified in the application as being subject to the investigation holds recoverable property or associated property;
 - that person has at any time held property that was recoverable property or associated property at that time; or
 - the property specified in the application as being subject to the investigation is recoverable property or associated property;
- in the case of a detained property investigation, there are reasonable grounds for suspecting that the property specified in the application as being subject to the investigation, or a part of that property, is recoverable property; and
- in the case of a frozen funds investigation, there are reasonable grounds for suspecting that the money specified in the application as being subject to the investigation, or a part of that money, is recoverable property.

"**Associated property**" is defined in section 6.

70. The person named in the order (the subject of the order) should then either produce the material, or provide access to it, within the period of time directed by the order.

Section 79(5) provides a time period of seven days, unless in the particular circumstances the Bailiff considers it appropriate to order a different time period.

Particular action to be taken before an application for a production order

71. The officer should ascertain, as specifically as is possible in the circumstances, the nature of the material concerned and, where relevant, its location.
72. The officer should also make enquiries to establish what, if anything, is known about the likely owner(s), occupier(s), or person(s) in control of the premises where the material is believed to be located and the nature of the premises themselves; and to obtain any other information relevant to the application. This may not be necessary if the premises are owned, occupied or controlled by a professional body or a financial services business.
73. The officer should consider whether the application should seek production of the material or access to it. In most circumstances the officer would seek production, so the material can be retained. There are occasions however where the officer may simply want sight of information contained in larger material, for example an entry in a register.
74. The seven-day time limit for the production of material applies unless the Bailiff sets a different time period. Reasons which the officer might advance to the Bailiff for changing the seven-day period are that:
 - the investigation may be prejudiced unless there is a shorter time period; or
 - it would not be reasonably practicable for the subject of the production order to comply with the seven-day time period due to the nature or amount of documentation required.
75. There will be cases where it is appropriate to contact the subject of the production order (for example a financial services business) before the application is made to discuss a reasonable time period.

Particular action to be taken executing a production order

76. When a production order is served on a person or institution seeking the production of material under section 79(4)(a), the covering letter should, in addition to the matters specified in paragraphs 47 and 48 of this Code, state -
 - that the order was made under section 79(4)(a);
 - the material or class of material required to satisfy the production order; and
 - the period of time within which the material must be produced.

77. Where an order is made seeking access to material under section 79(4)(b), the covering letter should, in addition to the matters specified in paragraphs 47 and 48 of this Code, state -
- that the order was made under section 79(4)(b);
 - the material or class of material required to satisfy the production order; and
 - the officer's right of access to the material within the period stated in the order.
78. Section 84 concerns the service of a production order on a committee of the States of Guernsey, States of Alderney or Chief Pleas of Sark. Where a production order is served on such a committee, it must be served as if the proceedings were other civil proceedings in relation to the committee. A production order served on any of these committees may require any officer responsible to the committee (whether named in the order or not) or any member of the committee ("**the officer or member concerned**") who is in possession or control of the material to comply with it. If the order does so require, then the person on whom it is served and any other officer responsible to the committee or any other member of the committee must take all reasonable steps to bring it to the attention of the officer or member concerned. If the order is not brought to the attention of the officer or member concerned within the period stated in the order, the person on whom it is served must report the reasons for the failure to the Bailiff.

Handling and retention of documents produced or accessed

79. A production order should be served on the person named in the order. If the order is made against a company or other legal persons and there are no directions for service, the officer should direct the order to a person in authority and with responsibility for the material.
80. When executing a production order, an officer should ask for the material specified in the production order to be produced.
81. An officer may take away the material covered by the production order, except where the production order is made under section 79(4)(b) and only allows access to, rather than removal of, the material.
82. An officer may photograph or copy, or have photographed or copied, the material that has been removed or accessed. If a copy of the material is sufficient, it should be copied on site and the original returned. If this is not practicable and the order was for production rather than providing access, the material may be taken away, be copied and the original returned as soon as possible.

83. Where an officer requires material that is contained in a computer (for example a computer printout) to be accessed or produced, it is to be made available in a visible and legible form, and in form specified by the officer, in accordance with section 83. The officer should ensure that care is taken when the person produces the material so that the material on the computer is not, for example, deleted or corrupted (whether deliberately or accidentally).
84. In cases where an officer serves a production order in person, the officer should complete, unless it is impracticable to do so, a list of the articles or documents removed or accessed and give a copy of it and (if appropriate, usually where an order to grant entry is made) a receipt to the owner or occupier and the subject of the order, if present, before leaving the premises. In any event, the officer should make, or have made, a record of the articles removed and/or accessed in compliance with a production order. A copy of any such record should be given to the subject of the order and the owner or occupier within seven days of the removal of, or access to, the material.

ORDER TO GRANT ENTRY

85. An officer should consider at the application stage whether a right to enter premises under section 81 is necessary in order to satisfy a production order to provide access to material on any premises. It might be used, for example, to enable an officer to be granted entry to a building in circumstances where a production order has been made in respect of material in a particular company's office in that building.
86. An order granting entry differs from a search and seizure warrant in that the order to grant entry is to require any person, who appears to the officer to be entitled to grant entry to the premises, to allow the officer to enter the premises to obtain access to the material. It does not include the power to search the premises.

SEARCH AND SEIZURE WARRANTS

87. Officers should familiarise themselves with the *Introduction* and *General Requirements* parts of this Code which set out general matters relating to relevant orders and warrants.

Definition

88. A search and seizure warrant is a warrant authorising an officer (and any other persons authorised by the warrant to accompany the person in relation to the investigation) to -
 - enter and search the premises specified in the application for the warrant, and

- seize and retain any material found there which is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the application is made.

Persons who can apply for a search and seizure warrant

89. An application must be made by an officer. The person who is carrying out the investigation will normally make the application to the Bailiff. The search and seizure warrant must be executed by an officer. It may be the case that the officer who makes the application is also the officer who executes the warrant.
90. As part of the application, the officer can request that the warrant authorises other persons to accompany the officer when executing the warrant (in relation to the investigation)³⁷.

Statutory requirements

91. A search and seizure warrant may be issued under section 85 if either of the requirements for the issuing of the warrant is fulfilled³⁸. The requirements are that a production order has already been made and has not been complied with and there are reasonable grounds for believing that the required material is on the premises specified in the application for the warrant OR that section 86 (requirements where production order not available) is satisfied.
92. Section 86 imposes two requirements to be satisfied for the granting of a search and seizure warrant in the absence of a production order – where both are satisfied, a warrant may be issued under section 85.
93. The first requirement is that³⁹ –
 - in the case of a civil forfeiture investigation, there are reasonable grounds for suspecting that -
 - the person specified in the application for the warrant as being subject to the investigation holds recoverable property or associated property;
 - that person has at any time held property that was recoverable property or associated property at that time; or
 - the property specified in the application as being subject to the investigation is recoverable property or associated property;

³⁷ Section 11 of PPACE, as applied to search and seizure warrants by the Forfeiture of Assets in Civil Proceedings (Commencement, Amendment and Miscellaneous Provisions) (Bailiwick of Guernsey) Regulations, 2024.

³⁸ Section 85(1) and (5).

³⁹ Section 86(2).

- in the case of a detained property investigation into the derivation or intended use of property, there are reasonable grounds for suspecting that the property specified in the application as being subject to the investigation, or a part of that property, is recoverable property (including being intended by any person to be used for unlawful conduct); or
 - in the case of a frozen funds investigation into the derivation or intended use of money held in a frozen account, there are reasonable grounds for suspecting that that money, or a part of that money, is recoverable property (including being intended by any person to be used for unlawful conduct).
94. The second requirement is that one of two alternative conditions must be satisfied (respectively "**condition one**" and "**condition two**").
95. Condition one is that there are reasonable grounds for believing the required material is likely to be of substantial value to the investigation and that it is in the public interest for the material to be obtained having regard to the likely benefit to the investigation, AND it would not be appropriate to make a production order because—
- (a) it is not practicable to communicate with
- any person against whom the production order could be made; or
 - any person who would be required to comply with an order to grant entry, or
- (b) the investigation might be seriously prejudiced unless immediate access to the material is secured.

Condition one might be satisfied, for example, where the person who owns the material, or who controls access to the premises on which the material is held, is abroad and therefore it is not possible to communicate with that person.

96. Condition two is that there are reasonable grounds for believing that there is required material on the premises which falls within section 86(6), (8), (9), (10) or (11), and there are reasonable grounds for believing that it is in the public interest for the material to be obtained having regard to the likely benefit to the investigation, and
- (a) it is not practicable to communicate with the person entitled to grant entry to the premises;
- (b) entry will not be granted without a warrant; or
- (c) the investigation might be seriously prejudiced unless immediate entry to the premises is secured.

Condition two might be satisfied, for example, where it is not possible to describe the material (for the purposes of a production order) and access will not be gained without a warrant (e.g. to the residence of the suspect).

97. The term "**premises**" is defined in section 144(1) and has the same meaning as in section 91(3) of PPACE. This includes any place and, in particular, would include any vehicle, vessel, aircraft, offshore installation, tent or moveable structure located on the premises.
98. The search and seizure warrant does not include a power to stop a person, make an arrest or search a person. This Code does not apply to searches conducted under other legislation or any other provision of the Law, and does not apply to searches conducted with consent which are conducted in the absence of a search and seizure warrant.

Particular action to be taken before applying for a search and seizure warrant

99. The officer should at all times have in mind that a search and seizure warrant is the most invasive of the powers of investigation.
100. The officer should consider why a search and seizure warrant is needed rather than a production order with an order to grant entry.
101. The officer should ascertain as specifically as is possible in the circumstances the nature of the material to be specified in the application and its location.
102. The officer should also make reasonable enquiries to establish what, if anything, is known about the likely owner or occupier, or person in control, of the premises and the nature of the premises themselves; whether they have been previously searched and if so how recently; and obtain any other information relevant to the application.
103. The officer should consider whether any other persons are needed to accompany the officer to execute the warrant (for example, computer experts if material on computers is to be accessed). If they are needed, those persons will need to be named in the application as persons to be authorised by the warrant to accompany the officer concerned at the time of execution of the warrant.

Particular action in making an application for a search and seizure warrant

104. An application for a search and seizure warrant must state -
 - that a person specified in the application is subject to a civil forfeiture investigation; or that the property specified in the application is subject to a civil forfeiture investigation, detained property investigation or frozen funds investigation;

- the name (if any) and address of the premises to be searched and the object of the search;
- the material which is sought, or that there are reasonable grounds for believing that there is material falling within section 86(6), (8), (9), (10) or (11) on the premises;
- which of the requirements under section 85(5) apply to the application: whether a production order made in relation to material has not been complied with and there are reasonable grounds for believing that the material is on the premises specified in the application for the warrant, OR that section 86 is satisfied;
- if relying upon satisfying section 86 -
 - o how subsection (2) of that section applies; and
 - o which of the conditions in either section 86(3) or (5) apply to the application;
- the name of the officer; and
- the names of any persons who are requested to be able to accompany the officer at the time of execution of the warrant, with the justification for those persons being so authorised by the warrant.

The application should also state that it has been authorised by a senior officer, where this is the case, although this is not a prerequisite.

105. If an application for a search and seizure warrant is refused, no further application may be made for a warrant to search those premises in the same investigation unless supported by additional grounds which subsequently come to light.

Particular action to be taken executing a search and seizure warrant

106. If the officer who made the application is not the same person as the officer authorised to execute the warrant, the officer should explain the background and decision to apply for the warrant to the officer executing the warrant. The officer executing the warrant will then be in possession of relevant information which would help when executing the warrant.
107. Any person who is not named in the warrant as the officer executing the warrant should be authorised by the warrant in order to attend the execution of the warrant. These other persons may only attend execution of the warrant if they are accompanying the officer executing the warrant.

Time limit for conducting searches

108. Under section 88, a search and seizure warrant -

- must be executed within one calendar month of the warrant being issued for the investigation, unless otherwise specified by the warrant; and
- should be returned to His Majesty's Greffier after its execution, or if not executed, upon the expiry of one calendar month of the warrant being issued or any longer period specified for the execution of the warrant⁴⁰.

109. Where the extent or complexity of a search means that it is likely to take a long time to complete, the executing officer may wish to consider whether the powers under section 18 of PPACE (additional powers of seizure) may appropriately be used.

Entry other than with consent

110. Before entering the premises, the executing officer should first attempt to communicate with the owner or occupier, or any other person entitled to grant access to the premises, by explaining the authority under which entry is sought to the premises, showing the warrant and asking the owner, occupier, or person entitled to grant access to allow entry, unless -

- the premises to be searched are known to be unoccupied;
- the owner or occupier and any other person entitled to grant access are known to be absent; or
- there are reasonable grounds for believing that to alert the owner or occupier or any other person entitled to grant access by attempting to communicate with them would frustrate the object of the search or endanger the officer concerned or other people.

111. Before a search begins the officer should identify themselves and show an official form of identification, state the purpose of the search and the grounds for undertaking it⁴¹. The officer need not comply with this requirement if the circumstances detailed in paragraph 110 of this Code apply.

⁴⁰ Section 11 of PPACE, as applied to search and seizure warrants by the Forfeiture of Assets in Civil Proceedings (Commencement, Amendment and Miscellaneous Provisions) (Bailiwick of Guernsey) Regulations, 2024.

⁴¹ Section 11 of PPACE, as applied to search and seizure warrants by the Forfeiture of Assets in Civil Proceedings (Commencement, Amendment and Miscellaneous Provisions) (Bailiwick of Guernsey) Regulations, 2024.

Notice of powers and rights

112. The officer should, unless it is impracticable to do so, provide the owner or occupier and any other person entitled to grant access to the premises with a copy of the warrant and in addition to the matters specified in paragraphs 47 and 48 of this Code, a notice -
- summarising the extent of the powers of search and seizure conferred by the Law; and
 - stating that a copy of this Code is available to be consulted and giving a contact point at which it can be obtained.
113. If the owner or occupier, or person entitled to grant access is present, copies of the notice mentioned above, and of the warrant should, if practicable, be given to the owner or occupier or person entitled to grant access before the search begins, unless the officer reasonably believes that to do so would frustrate the object of the search or endanger those who are to conduct the search or other people. If the owner or occupier or person entitled to grant access is not present, copies of the notice and of the warrant should be left in a prominent place on the premises or appropriate part of the premises and endorsed with the name of the executing officer and the date and time of the search, and the name of the law enforcement agency to which the officer is attached⁴²; but in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving the officer's name might put the officer in danger, a warrant or other identification number should be given; the warrant itself should be endorsed to show that this has been done.
114. If the person does not appear to understand what is being said, or the officer has doubts as to the person's ability to speak and/or understand English, or to hear and/or speak, then the officer should take reasonable steps to ensure that the person understands. If these reasonable steps cannot be fulfilled, for example a suitable interpreter cannot be found, then the search may not proceed. In all cases, the officer should record any difficulties encountered and the reasons for, or for not, proceeding.

Conduct of searches

115. Searches should be conducted at a reasonable time of day, for example in the case of domestic premises, outside normal sleeping hours and in the case of business premises, during normal business hours, unless this might frustrate the purpose of the search. If a search will take place at an unreasonable hour, the executing officer should record their reasons for doing so in writing.

⁴² Section 11 of PPACE, as applied to search and seizure warrants by the Forfeiture of Assets in Civil Proceedings (Commencement, Amendment and Miscellaneous Provisions) (Bailiwick of Guernsey) Regulations, 2024.

116. Premises should be searched only to the extent necessary to achieve the object of the search, having regard to the size and nature of whatever is sought. A search may not continue once the object of the search has been found and no search may continue once the executing officer is satisfied that whatever is being sought is not on the premises. This does not prevent the application for further search and seizure warrants in respect of the same premises if additional grounds come to light. Examples would be when as a result of new information it is believed that articles previously not found or additional articles are now on the premises.
117. Searches should be conducted with due consideration for the premises and privacy of the owner or occupier of the premises searched, and with no more disturbance than necessary.
118. The person should be asked whether they wish a friend, neighbour or other person to witness the search. However, a search need not be unreasonably delayed for this purpose. The person nominated should be allowed to witness the search unless the executing officer has reasonable grounds for believing that the presence of the person asked for would significantly hinder the investigation or endanger the officer concerned or other people. A record of the action taken under this paragraph, including the grounds for refusing a request from the person entitled to grant access, should be made on the premises search record (for the purposes of completing the search record, there is no requirement to record the name, address and date of birth of the person searched or the person in charge of a vehicle which is searched. The person is under no obligation to provide this information and they should not be asked to provide it for the purpose of completing this record). This requirement also relates to business and commercial properties if practicable, as well as private addresses.
119. A person is not required to be cautioned prior to being asked questions that are solely necessary for the purpose of furthering the proper and effective conduct of a search. Examples would include questions to discover who is the owner, or occupier or person entitled to grant access in relation to specified premises, to find a key to open a locked drawer or cupboard or to otherwise seek co-operation during the search or to determine whether a particular item is liable to be seized.

Leaving the premises

120. The officer should, before leaving the premises, be satisfied that they are secure either by arranging for the owner or occupier or person entitled to grant access or their agent to be present or by any other appropriate means.

Seizure of material

121. An officer may seize:

- any material found on the premises which is specified in the warrant, or is otherwise likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant was sought;
 - anything covered by the powers in section 18 of PPACE (additional powers of seizure) which allow an officer to seize property from premises (where it is not reasonably practicable to determine on the premises whether they are entitled to seize it) and retain it for sifting or examination in secure conditions elsewhere; and
 - anything that the officer has the power to seize not covered by the warrant which is discovered during the course of the search (for example seizure of cash or other designated property under section 39). However, this is incidental to the search powers and a warrant should not be applied for to search for other material other than that specified in the application. Regard should be had to any code relevant to the exercise of the other powers.
122. Execution of a search and seizure warrant should no longer continue if it appears to the executing officer that there is no more material covered by the warrant on the premises, even if the officer suspects that there are other items which they may want to seize.
123. Officers should be aware of section 1 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006⁴³. This applies where property comes into possession of officers in connection with their investigation of a suspected offence. This provision allows anyone claiming the property to apply to the Magistrate's Court in Guernsey (or in the case of Alderney, the Court of Alderney; and in the case of Sark, the Court of the Seneschal) for its return to its owner. In certain circumstances, this provision may apply to a seizure carried out during the execution of a search and seizure warrant issued under Part V of the Law. In addition, a person with an interest in the property could also seek a judicial review of the search, seizure and detention of the property.
124. An officer may photograph, image or copy, or have photographed, imaged or copied, any material that has been seized under the warrant. In a civil forfeiture investigation, detained property investigation or frozen funds investigation, an officer should have regard to their obligation not to retain original material when a photograph or copy would be sufficient. Officers should also be aware of the safeguards and other PPACE provisions applied by the Forfeiture of Assets in Civil Proceedings (Commencement, Amendment and Miscellaneous Provisions) (Bailiwick of Guernsey) Regulations, 2024 in relation to search and seizure warrants.
125. Material seized under a warrant may be retained for as long as it is necessary to retain it (as opposed to copies of it) in connection with the investigation for the purposes of which the warrant was issued. But if an officer has reasonable grounds for believing that -

⁴³ Order in Council No. XXII of 2007; this enactment has been amended.

- the material may need to be produced for the purposes of any legal proceedings; and
 - it might otherwise be unavailable for those purposes, it may be retained until the proceedings are concluded⁴⁴.
126. Where an officer considers that information which is held in a computer and is accessible from the premises specified in the warrant is relevant to the investigation, the officer may require the information to be produced from the computer in a form which can be taken away (for example a computer printout or removable computer disc)⁴⁵. Care should be taken to ensure that the person producing the material in this form does not delete or corrupt evidence from the computer, either deliberately or accidentally.

Particular record of proceedings in executing a search and seizure warrant

127. Where premises have been searched under a warrant issued under section 85, the executing officer should make or have made a written record of the search at the time of the search, unless there are exceptional circumstances that would make this impractical. If a written record is not made at the time then the officer should do so as soon as is reasonably practical thereafter and also set out the reasons for the delay in making the record. There may be situations when it is not practical to obtain all of the information necessary to complete a record, but the officer should make every reasonable effort to do so, and, if necessary, complete a partial record. The record should include -
- the address of the premises searched (and if relevant and possible the part of those premises searched). Where a vehicle is searched, the location of that vehicle;
 - the date, time and duration of the search;
 - outcome of the search;
 - the warrant under which the search was made (a copy of the warrant should be appended to the record or kept in a place identified in the record);
 - the name of the officer; but in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving the name might put the officer in danger, a warrant or other identification number should be given; and the name of the law enforcement agency to which the officer is attached;

⁴⁴ Section 88(7) and (8).

⁴⁵ Section 88(3).

- the names of any persons authorised by the warrant to accompany the officer;
- the names and dates of birth of any people on the premises if they are known⁴⁶;
- the names and details of any witnesses;
- any grounds for refusing the request of the owner, occupier, or the person who is entitled to grant access to have someone present during the search as set out in paragraph 118 of this Code;
- any explanation given by the person as to the ownership, origins, purpose and destination of any material seized;
- either a list of any material seized or a note of where such a list is kept and, if not covered by a warrant, the grounds for their seizure;
- details of any damage to property or injury to person caused during the search;
- the circumstances in which it was caused; and
- confirmation that the premises were left secured and by what means; and any other relevant information. Unless it is impracticable to do so, or it would jeopardise a wider ongoing operation or investigation, a copy of the record should be given immediately to the person in charge of the premises searched. If a record is not made at the time, the person should be informed how they can apply for a copy of the record once it is made.

128. When an officer makes a record of the search electronically and is unable to produce a copy of the form at the time of the search, the officer should explain how the person can obtain a full copy of the record of the search and give the person a receipt which contains -

- a unique reference number and guidance on how to obtain a full copy of the report;
- the name of the officer who carried out the search; but in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving the name might put the officer in danger, a warrant or other identification number should be given; and the name of the law enforcement agency to which the officer is attached; and

⁴⁶ When considering whether to request and make a record of someone's personal details, the officer should be aware of the need for proportionality to avoid any unjustifiable interference with a person's right to private and family life under Article 8 of the European Convention on Human Rights.

- the power used to search.
129. The search and seizure warrant should be endorsed by the executing officer to show-
- whether any material was seized;
 - the date and time at which it was executed;
 - the name of the officer who executed it; but in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving the name might put the officer in danger, a warrant or other identification number should be given; and the name of the law enforcement agency to which the officer is attached; and
 - whether a copy of the warrant, together with a copy of the Notice of Powers and Rights, was handed to the owner or occupier or person entitled to grant entry, or whether it was endorsed and left on the premises together with the copy notice and, if so, where.

Search register

130. In the case of searches undertaken by Guernsey police officers, a record of the search should be made, copied or referred to in the search register. In the case of searches undertaken by other officers the record of the search should be maintained in a suitable form, i.e. the record should be easily accessible, retrievable and subject to reasonable rules for storage, in particular in relation to the length of time before the record is destroyed.
131. In order to promote public confidence in the use of the powers, law enforcement agencies using these powers should be prepared to explain the use of the powers in response to a reasonable request.

Specific procedures for seize and sift powers

132. Section 18 (additional powers of seizure) of PPACE provides persons who are lawfully on any premises and exercising powers of search and seizure with further limited powers to seize material from the premises so that they can sift through it or otherwise examine it elsewhere. These powers may be exercised for the reasons stated in section 18; officers should refer to and have regard to this provision. All officers conducting searches under the Law are permitted to use these powers. Officers should be careful that they only exercise these powers where it is essential to do so and that they do not remove any more material than is absolutely necessary. The removal of large volumes of material, much of which may not ultimately be retained, may have serious implications for the owners, particularly where they are involved in business, or activities such as journalism or provision of medical services.

Officers should always give careful consideration to whether removing copies or images of relevant material or data would be a satisfactory alternative to removing the originals. Where originals are taken, officers should always be prepared to facilitate the provision of copies or images for the owners where that is reasonably practicable.

133. Property seized under section 18 of PPACE must be kept securely and separately from any other material seized under other powers. An initial examination under section 20 of PPACE to determine what material may be retained in accordance with PPACE must be carried out as soon as reasonably practicable, allowing the person from whom the material was seized, or a person with an interest in the material, an opportunity of being present or represented. Officers should ensure that they have the facilities for the sift to be conducted in suitable surroundings and that persons from whom the material was seized or who have an interest in the material or their representative can be present.
134. All reasonable steps should be taken to accommodate an interested person's request to be present, provided the request is reasonable and subject to the need to prevent harm to, interference with, or unreasonable delay to, the investigatory process. What constitutes a relevant interest in specific material may depend on the nature of that material and the circumstances in which it is seized. Anyone with a reasonable claim to ownership of the material and anyone entrusted with its safe keeping by the owner should be considered. If an examination proceeds in the absence of an interested person who asked to attend or their representative, the executing officer should give that person a written notice of why the examination was carried out in those circumstances. If it is necessary for security reasons or to maintain confidentiality, officers may exclude interested persons from decryption or other processes which facilitate the examination but do not form part of it.
135. It is the responsibility of the officer in charge of the investigation to ensure that, where appropriate, property is returned in accordance with sections 20 and 21 of PPACE. Material which is not retained is to be separated (if possible and having regard to section 20(8) of PPACE) from the rest of the seized property and returned as soon as reasonably practicable, after examination of all the seized property. Material cannot be retained if it is legally privileged material, excluded material or falls outside the terms of the warrant. Delay on return of material is only warranted if clear and compelling reasons exist; for example, the unavailability of the person to whom the material is to be returned or the need to agree a convenient time to return a very large volume of material. Legally privileged or excluded material which cannot be retained is to be returned as soon as reasonably practicable, and without waiting for the whole examination. As set out in section 23 of PPACE, material is to be returned to the person from whom it was seized, except where the officer is satisfied that some other person has a better right to it. Requirements to secure and return property apply equally to all copies, images or other material created because of the seizure of the original property.

136. Where an officer involved in the investigation has reasonable grounds to believe that a person with a relevant interest in property seized under section 18 of PPACE intends to make an application to a court for the return of any legally privileged or excluded material, the officer in charge of the investigation should be informed as soon as practicable and the material seized should be kept secure. Officers should consider reaching agreement with owners and/or other interested parties on the procedures for examining a specific set of property, rather than awaiting the court's determination. Agreement can sometimes give a quicker and more satisfactory route for all concerned and minimise costs and legal complexities.
137. The responsibility for ensuring property is properly secured rests ultimately with the executing officer, even if there is a separate person delegated with this specific task. Securing involves making sure that the property is not examined, copied or imaged or put to any other use except with the consent of the applicant or in accordance with the directions of the Bailiff (or appropriate judicial officer)⁴⁷. Any such consent or directions should be recorded in writing and signed by both the applicant (or judicial officer) and the officer. The mechanics of securing property vary according to the circumstances; "bagging up" (placing material in sealed bags or containers and strict subsequent control of access) is the appropriate procedure in many cases.
138. Where an officer exercises a power of seizure conferred by section 18 of PPACE, the officer should, at the earliest opportunity and unless it is impractical to do so, provide the owner, occupier, or person entitled to grant access to the premises or the person from whom the property was seized with a written notice -
- specifying what has been seized under the powers conferred by that section;
 - specifying the grounds on which those powers have been exercised;
 - specifying the name and address of the person to whom an application may be made to be allowed to attend the initial examination of the property.
139. If the owner or occupier is not present but there is some other person there who is in charge of the premises, the notice should be given to that person. If there is no one on the premises to whom the notice may appropriately be given, it should either be left in a prominent place on the premises or attached to the exterior of the premises so that it will easily be found.

Retention

140. Anything that has been seized under the Law or PPACE may be retained only for as long as is necessary in connection with the investigation for the purposes of which the warrant was issued.

⁴⁷ Section 20(4) of PPACE.

141. Property should not be retained if a photograph or copy would be sufficient – officers and officers should be aware of the safeguards and other provisions applied by the Forfeiture of Assets in Civil Proceedings (Commencement, Amendment and Miscellaneous Provisions) (Bailiwick of Guernsey) Regulations, 2024.

Rights of owners

142. If property is retained under the Law or PPACE, the owner or occupier of the premises from where it was seized, or the person who had custody or control of it immediately prior to its seizure, should on request be provided with a list or description of the property within a reasonable time.
143. That person or their representative should be allowed supervised access to the property to examine it or have it photographed or copied, or should be provided with a photograph or copy, in either case within a reasonable time of any request and at their own expense, unless the officer has reasonable grounds to believe that this would prejudice the investigation or any proceedings, or would lead to the commission of an offence by providing access to unlawful material such as pornography. A record of the grounds should be made in any case where access is denied.

Access to search warrant application documents

144. If any person affected by a search and seizure warrant seeks access to the documents supporting the application for the search and seizure warrant, the officer is expected to consider the request within 14 days. Access may be refused, for example, on the basis that allowing access to some or all of the documents would -
- prejudice the prevention or detection of crime;
 - prejudice the apprehension or prosecution of offenders;
 - prejudice the investigation for which the warrant was issued or any other civil forfeiture investigation, detained property investigation or frozen funds investigation; or
 - be contrary to any public interest in maintaining the confidentiality of that information.
145. In order to promote public confidence in the use of the powers, law enforcement agencies using these powers should be prepared to explain the use of the powers in response to a reasonable request.

CUSTOMER INFORMATION ORDERS

146. Persons to whom this part of the Code applies should familiarise themselves with the *Introduction* and *General Requirements* parts of this Code which set out general matters relating to relevant orders and warrants.

Definition

147. A customer information order compels a financial services business covered by the application to provide any "**customer information**" it has relating to the person specified in the application on receipt of a written notice from an officer asking for that information. "**Customer information**" is defined in section 95. "**Financial services business**" has the meaning given by section 49 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999⁴⁸ ("**the Proceeds of Crime Law**") and includes a person carrying on such a business. A customer information order is available for the purposes of a civil forfeiture investigation, detained property investigation or frozen funds investigation.

Persons who can apply for a customer information order

148. An officer can apply for a customer information order, but (unless that officer is a senior officer or it is impracticable to do so) should seek the authorisation of a senior officer before making an application to the Bailiff for such an order.

For the purposes of this requirement, this means -

- in the case of a Guernsey police officer, authorisation by a Guernsey police officer of at least the rank of inspector;
- in the case of an Alderney police officer (if an Alderney police force is established), authorisation by an Alderney police officer of at least the rank of inspector;
- in the case of the Assistant Constable or special constable of Sark, authorisation by the Constable or the Vingtenier;
- in the case of a customs officer, authorisation by a customs officer of at least the rank of senior officer or Senior Investigation officer; and
- in the case of a designated person in the Economic and Financial Crime Bureau, authorisation by a designated person appointed as senior officer by the Director of the Bureau.

⁴⁸ Ordres en Conseil Vol. XXXIX, p. 137; this enactment has been amended.

Statutory requirements

149. The application must state -

- (a) a person specified in the application is subject to a civil forfeiture investigation; or property specified in the application (and held or formerly held by a specified person⁴⁹) is subject to a civil forfeiture investigation, detained property investigation or frozen funds investigation;
- (b) that the order is sought for the purposes of that investigation;
- (c) the financial services business, or a description of financial services businesses, from which the customer information is to be obtained – a description of financial services businesses may include all financial services businesses but would usually be specifically targeted, such as those financial services businesses within a geographical area;
- (d) the reasonable grounds for suspecting that the person specified in the application –
 - holds recoverable property or associated property; or
 - has at any time held property that was recoverable property or associated property at that time;
- (e) the reasonable grounds for believing that customer information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and
- (f) the reasonable grounds for believing it is in the public interest for the customer information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

Particular action to be taken before applying for a customer information order

150. The officer should carefully consider the existing evidence and information and source of information so as to limit the number or scope of financial services business falling within the order. This may include researching the Police National Computer. The officer should consider what benefit the customer information may have, either in itself or as the lead to other avenues of investigation and whether the information could not be acquired as effectively and efficiently from material which could be

⁴⁹ Section 94(2)(a) does not require the person who held or formerly held the property to be specified in the application, but it might be helpful to do so, in order to meet the requirement in section 96(2) for making a customer information order. The latter requirement is reflected in paragraph 149(d) of this Code.

obtained by way of a production order. The officer should consider the cost to a financial services business of complying with a customer information order.

151. The officer should particularly consider the proportionality of requesting the customer information against the believed benefit to the investigation. The officer should also consider the broader issues of law enforcement such as the benefit to the community of removing the suspected recoverable property from circulation.

Particular action to be taken serving notices under a customer information order

152. Section 94(4) requires a financial services business (following a notice in writing given by an officer) to provide any customer information which it has relating to the person specified in the application. Section 94(5) gives the officer the power to require the business to provide the information in a particular manner, and at, or by, a particular time. The officer should set a reasonable time period depending on the nature of the business and the information that is requested. There will be cases where the best practice is to contact the financial services business before the notice is served to discuss a reasonable time period.

153. A notice given under a customer information order should include the following -

- the name of the financial services business;
- the name of the person(s) (or other identifying factor) about whom customer information is sought;
- the financial services business' right to refuse to comply with any requirement made of it unless the officer has, if asked to do so, produced evidence of their authority⁵⁰;
- the period of time within which the customer information must be provided;
- the manner in which such information must be provided;
- the place at or to which the information is to be provided;
- where the officer believes that the customer information includes information held in any other name that the specified person has or had used, that other name;
- where the officer believes that the customer information includes information held in the name of a company or limited liability partnership that the specified person has or had an interest, the name

⁵⁰ Section 94(6).

and all known addresses of that company or limited liability partnership;

- all addresses known by the officer to have been used by the specified person relating to accounts that may have been or are held by the financial services business;
- the date of birth or approximate age of that person if an individual, or any known identification information in respect of a company, limited liability partnership or other legal person;
- such other information as the officer considers would assist the financial services business in complying with the order; and
- notice that a statement made by the financial services business in response to the order may not be used in evidence against it in criminal proceedings other than in the circumstances set out in section 104(3).

Particular record of proceedings under a customer information order

154. The officer should keep a copy of the customer information order and all the notices issued to financial services businesses under a customer information order. The officer should also keep a record of all the information supplied in response to the notices.
155. The officer should consider the customer information that has been obtained and consider whether a production order or account monitoring order would be the next step to obtain further information and material to support the investigation.

ACCOUNT MONITORING ORDERS

156. Persons to whom this part of the Code applies should familiarise themselves with the *Introduction* and *General Requirements* parts of this Code which set out general matters relating to relevant orders and warrants.

Definition

157. An account monitoring order is an order that requires a financial services business to provide information on an account for a specified period, up to 90 days, in the manner and at or by the times specified in the order. "**Account information**" is information relating to an account held at a financial services business – this would most commonly be transaction details. "**Financial services business**" has the meaning given by section 49 of the Proceeds of Crime Law and includes a person carrying on such a business. An account monitoring order is available for the purposes of a civil forfeiture investigation, detained property investigation or frozen funds investigation.

Persons who can apply for an account monitoring order

158. An application may be made by an officer.

Statutory requirements

159. The application must state that -

- (a) a person specified in the application is subject to a civil forfeiture investigation; or property specified in the application (and held by a specified person⁵¹) is subject to a civil forfeiture investigation, detained property investigation or frozen funds investigation;
- (b) the order is sought for the purposes of that investigation;
- (c) the order is sought against the financial services business specified in the application in relation to account information that the officer wishes to obtain;
- (d) the order is sought in relation to account information⁵² about the specified person;
- (e) the reasonable grounds for suspecting that the person specified in the application holds recoverable property or associated property;
- (f) the reasonable grounds for believing that account information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and
- (g) the reasonable grounds for believing that it is in the public interest for the account information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

160. The application for an account monitoring order may specify information relating to all accounts held by the person specified in the application for the order at the financial services business so specified, a particular description, or particular descriptions, of accounts so held, or a particular account, or particular accounts, so held. The order will set out the manner and deadline by which the financial services

⁵¹ Section 97(2)(a) does not require the person who holds the property to be specified in the application, but it would be helpful to do so, in order to meet the requirement in section 98(2) for making an account monitoring order. The latter requirement is reflected in paragraph 159(e) of this Code.

⁵² Account information relates to an account or accounts held at the financial services business by the person.

business must produce account information and the period for which the order should last (but this may not exceed a 90-day period)⁵³.

Particular action to be taken before applying for an account monitoring order

161. The officer should consider the benefit to the investigation of obtaining information from an account, and whether this information could be obtained by using a production order.
162. The officer should also consider the account information to be requested. If, for example, the officer requires information on certain transactions, the officer should consider whether this should be limited to transactions over a certain threshold or to the identity of the source of the deposit or transaction destination.
163. The provision of account information will be for so long as the court has set out in the order (although no longer than 90 days, beginning with the day on which the order is made) and be provided at or by the time or times stated in the order. A reasonable time period and times to provide the information should be identified for the court. For example, it may be reasonable that the information should be provided within 24 hours on all transactions unless it appears that it would not be reasonably practicable for the subject of the account monitoring order to comply with this time limit. It is best practice to contact the subject of the account monitoring order (i.e. the relevant financial services business) before the application is made to discuss types of transaction and the reporting process.
164. Officers should consider the time period they wish the account monitoring order to cover. The officer should not view the 90-day maximum as the standard time period. The officer should carefully consider and justify the requirement for the time period requested.

Particular action to be taken executing an account monitoring order

165. When an account monitoring order is served on a financial services business, the covering letter, in addition to the matters specified in paragraphs 47 and 48 of this Code, should include the following (unless it is already included in the order) -
 - the name of the financial services business;
 - the identity of the person(s) who hold(s) the account to be monitored, including as much identity information as is known by the officer;
 - the accounts in relation to which the information is required, whether this is a specific account or a general description of accounts; the account information required (in as specific detail as possible, for example a general description of the nature of the transactions);

⁵³ Section 97(5) and (6).

- the period for which the account monitoring order will have effect;
- the period of time within which such information must be provided to the officer (for example within 24 hours of a particular transaction taking place);
- the manner in which such information must be provided;
- such other information as the officer considers would assist the financial services business in complying with the requirements of the account monitoring order; and
- notice that a statement made by the financial services business in response to the order may not be used in evidence against it in criminal proceedings other than in the circumstances set out in section 104(3).

Particular record of proceedings under an account monitoring order

166. The officer should keep a record of all the account information supplied in response to the order and a copy of the order and any notices.

DISCLOSURE ORDERS

167. Persons to whom this part of the Code applies should familiarise themselves with the *Introduction* and *General Requirements* parts of this Code which set out general matters relating to relevant orders and warrants.

Definition

168. A disclosure order under section 91 is an order authorising an officer to give to any person the officer considers has relevant information notice in writing requiring them to answer questions, to provide information or to produce documents with respect to any matter relevant to the investigation in relation to which the order is sought. A disclosure order is available in civil forfeiture investigations, detained property investigations or frozen funds investigations. This Code does not provide guidance on the use of disclosure notices under other legislation.
169. Once a disclosure order has been made, officers may use the powers set out in section 91(3) throughout the investigation. Thus, unlike the other orders which have to be applied for separately on each occasion, a disclosure order granted by a court gives continuing powers for the purposes of the investigation. The officer should serve a notice on any person the officer wishes to question, or to ask to provide information or documents.
170. Under section 91(5), where a person is given a notice under a disclosure order, that person is not bound to comply with any requirement imposed by the notice unless

evidence of the authority to give the notice is provided. A copy of the disclosure order should therefore be given to the person on each occasion a notice is served upon that person.

Persons who can apply for a disclosure order

171. An officer can apply for a disclosure order, but (unless that officer is a senior officer or it is impracticable to do so) should seek the authorisation of a senior officer before making an application to the Bailiff for such an order.

For the purposes of this requirement, this means -

- in the case of a Guernsey police officer, authorisation by a Guernsey police officer of at least the rank of inspector;
- in the case of an Alderney police officer (if an Alderney police force is established), authorisation by an Alderney police officer of at least the rank of inspector;
- in the case of the Assistant Constable or special constable of Sark, authorisation by the Constable or the Vingtenier;
- in the case of a customs officer, authorisation by a customs officer of at least the rank of senior officer or Senior Investigation officer; and
- in the case of a designated person in the Economic and Financial Crime Bureau, authorisation by a designated person appointed as a senior officer by the Director of the Bureau.

Statutory requirements

172. The application must state that:

- (a) a person specified in the application is subject to a civil forfeiture investigation; or property specified in the application (and held by a specified person⁵⁴) is subject to a civil forfeiture investigation, detained property investigation or frozen funds investigation;
- (b) the order is sought for the purposes of that investigation;
- (c) the reasonable grounds for suspecting that –

⁵⁴ Section 91(2)(a) does not require the person who holds or has held the property to be specified in the application, but it *might* be helpful to do so, in order to meet the requirement in section 92(2) for making an account monitoring order. The latter requirement is reflected in paragraph 172(c) of this Code.

- the person specified in the application holds recoverable property or associated property;
 - the person specified in the application has at any time held property that was recoverable property or associated property at that time; or
 - the property specified in the application for the order is recoverable property or associated property.
- (d) the reasonable grounds for believing that information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought; and
- (e) the reasonable grounds for suspecting that it is in the public interest for the information to be produced or for access to it to be given, having regard to the benefit likely to accrue to the investigation if the information is obtained.

Particular action to be taken in making an application

173. An application should state:

- in the case of a civil forfeiture application, details of the property or the name of the person under investigation;
- in any other case, details of the property under investigation (in addition to the name of the person that holds or has held the property where available);
- that the order is sought for the purposes of that investigation;
- whether the officer is likely to require answers to questions and/or information and/or documents;
- if applicable and practicable, the name of the person or persons against whom the power may be used;
- the grounds on which the application is made (including details of the investigation); and
- why a disclosure order is required in preference to the other powers of investigation.

174. The officer should carefully consider what benefit the disclosure order may bring to the investigation, either in itself or as the lead to other avenues of investigation and whether the information could not be acquired as effectively and efficiently from material which could be obtained by other orders.

175. Where persons are required to provide information, the notice should be accompanied by a letter explaining that the information should be produced in the

form of a witness statement together with a standard statement of truth. The letter should also explain that the person will be committing a criminal offence if they fail, without reasonable excuse, to answer questions.

INTERVIEWS ARISING FROM DISCLOSURE ORDERS

176. The disclosure order also contains a power to ask questions. The preferred method for asking questions is to conduct a formal interview in accordance with the procedure set out below.

Invitation to interview

177. The officer should send the person to be interviewed a notice served under the disclosure order which should set out -

- the right of the officer to carry out the interview under section 91(3)(a);
- the purpose of the interview, which may be as detailed as the officer considers necessary;
- the right not to have statements made by them used in evidence in criminal proceedings other than in the circumstances specified in section 104(3);
- the right to be accompanied at any interview by an Advocate and/or a qualified accountant;
- the right, if they are a child or are a vulnerable interviewee, to be accompanied at any interview by an appropriate adult⁵⁵;
- details of the place at which the interview is to take place;
- where attendance is not required at once, the time and date of the interview;
- that failure to comply with a disclosure order without reasonable excuse is an offence under section 100; and
- that false or misleading statements in response to an order, whether deliberate or reckless, also amount to an offence.

Legal and financial advice

178. In this Code, an "**Advocate**" means an Advocate of the Royal Court or an "**authorised lawyer**" within the meaning of section 19(3) of the Legal Aid (Bailiwick of Guernsey)

⁵⁵ See paragraphs 191 to 195 of this Code.

Law, 2003⁵⁶. Officers should consult the Guernsey Bar in cases where there is a doubt regarding the individual.

179. A "**qualified accountant**" means a person who is –
- (a) a member or fellow of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland, the Association of Chartered Certified Accountants or the Association of Authorised Public Accountants;
 - (b) a recognised auditor within the meaning of section 274B(1) of the Companies (Guernsey) Law, 2008⁵⁷; or
 - (c) an individual who is for the time being authorised by the relevant committee under section 78(1)(b) of the Companies (Alderney) Law, 1994⁵⁸ to audit the accounts of companies as having similar qualifications obtained outside the United Kingdom.
180. In urgent cases a person who is not suspected of any unlawful conduct may be prepared to answer questions without the presence of an Advocate and/or qualified accountant. If a person to be interviewed requests access to legal or financial advice before complying with a requirement to be interviewed in a notice served under a disclosure order, the officer should normally consent and set a reasonable time limit for obtaining such advice. In the exceptional cases set out below the officer may refuse such a request depending on the circumstances of the case.
181. A person who requests legal and/or financial advice must not be interviewed or continue to be interviewed until they have received such advice unless -
- (a) the officer conducting the interview has reasonable grounds for believing that-
 - the consequent delay would be likely to lead to interference with or harm to evidence connected with the investigation; or
 - the delay would alert another person whom the officer conducting the interview thinks might have information relevant to the investigation and alerting that person would prejudice the investigation;
 - (b) an Advocate and/or qualified accountant has been contacted and has agreed to attend but the officer considers that awaiting their arrival would cause unreasonable delay to the process of investigation;
 - (c) the Advocate and/or qualified accountant whom the person has nominated -

⁵⁶ Ordres en Conseil Vol. XLIV(1), p. 104; this enactment has been amended.

⁵⁷ Order in Council No. VIII of 2008; this enactment has been amended.

⁵⁸ Ordres en Conseil Vol XXXV(2), p. 777; this enactment has been amended.

- cannot be contacted;
 - has previously indicated that they do not wish to be contacted; or
 - having been contacted, has declined to attend and the person being interviewed declines to consult another Advocate and/or qualified accountant;
- (d) the person who wanted legal and/or financial advice changes his or her mind;
- (e) there is an urgent need to avoid serious adverse consequences for the life, liberty or physical integrity of a person;
- (f) there is an urgent need to prevent the destruction, alteration, interference or harm to evidence connected with the investigation; or
- (g) the particularly identified Advocate and/or qualified accountant is suspected of being involved in criminality; in these circumstances, the person should be allowed to choose another Advocate and/or qualified accountant to represent that person.

Such a decision to proceed with the interview should usually be with the authorisation of a senior officer and recorded in writing.

182. In a case falling within paragraph 181(a) of this Code, once sufficient information has been obtained to avert the risk of interference or harm to evidence or of alerting another person so as to prejudice the investigation, questioning should cease until the interviewee has received legal or financial advice.
183. In a case falling within paragraph 181(d) of this Code, the interview may be started or continued without further delay provided that the person has given his or her agreement in writing to being interviewed without receiving legal or financial advice and that the officer conducting the interview has inquired into the person's reasons for the change of mind and has given authority for the interview to proceed. Confirmation of the person's agreement, his or her change of mind and his or her reasons (where given) should be recorded in the written interview record at the beginning or re-commencement of interview.
184. If an Advocate wishes to send someone who is not an Advocate to provide advice on their behalf, then that person may also be recognised (and regarded) as an Advocate for the purposes of this Code and should be admitted to the interview unless the officer considers that this will hinder the investigation.
185. In exercising their discretion as to whether to admit a person who is not an Advocate, the officer should take into account in particular: whether the identity and status of that person has been satisfactorily established; whether that person is of suitable

character to provide legal advice (a person with a criminal record is unlikely to be suitable unless the conviction was for a minor offence and was not recent); and any other matters in any written letter of authorisation provided by the Advocate on whose behalf that person is attending.

186. If the officer conducting the interview refuses access to a person who is not an Advocate or a decision is taken that that person should not be permitted to remain at an interview, this should be recorded in writing (together with the reasons) and the officer should notify forthwith the Advocate on whose behalf that person was to have acted or was acting, and give the Advocate an opportunity to make alternative arrangements. The person being interviewed should also be informed.

Persons who may be present at interviews

187. Interviews should be conducted in private. Only persons whose presence is provided for by this Code should be present. At least two members of staff, one of whom should be an officer, should be present at all times. There may be more than one officer conducting the interview. It is for the person being interviewed to arrange the presence of any Advocate and/or qualified accountant. When doing so the interviewee should ensure that the person the interviewee selects is available to attend. Where the provisions of this Code require the presence of an appropriate adult or an interpreter and no such person attends with the interviewee, the officer should, before commencing or restarting any interview, secure the attendance of such a person.
188. The officer may be accompanied by a person to assist in handling documents and carrying out such other support tasks as will assist in the conducting of the interview. Such a person has no power to require the interviewee to do anything and need not disclose the person's name provided a record of it is made by the officer conducting the interview.

Vulnerable interviewees

189. If an officer has any suspicion or is told in good faith (without clear evidence to the contrary) that -
- (a) a person is or appears to be under 18 years of age ("**a child**")⁵⁹;
 - (b) a person has a mental disorder⁶⁰;

⁵⁹ If anyone appears to be under the age of 18, they must be treated as a child for the purposes of this Code unless there is clear evidence that they are older.

⁶⁰ "**Mental disorder**" is defined in section 1(2) of the Mental Health (Bailiwick of Guernsey) Law, 2010 as "any disorder or disability of the mind".

- (c) a person has a learning disability or an impairment⁶¹ affecting the person's mental functions; or
- (d) a person is mentally incapable of understanding the significance of questions put to the person or the person's replies;

that person should not be interviewed unless an appropriate adult is present.

190. In this Code, "**vulnerable interviewee**" means a person falling within paragraph 189(b), (c) or (d) of this Code. Where the officer conducting the interview has any doubt about the mental state or capacity of an interviewee, that person should be regarded as a vulnerable interviewee and an appropriate adult should be called.

The appropriate adult

191. In this Code, an "**appropriate adult**" means, in the case of -

- a child -
 - a person who has legal responsibility for, or is a tuteur of, the child;
 - if the child is in the care of any body or agency, a person representing that body or agency; or
 - in the absence of the persons mentioned above, some other responsible person⁶² aged 18 years or over who is neither an officer nor employed by any law enforcement agency or prosecuting body; and
- a vulnerable interviewee -
 - a person specified in section 136(7)(a), (b), (c), (d) or (e) of the Law in relation to the country in which the interviewee is resident;
 - a relative, guardian or other person responsible for the interviewee's care or custody;
 - someone experienced in dealing with a person of that description but who is neither an officer nor employed by any law enforcement agency or prosecuting body; or

⁶¹ "**Impairment**" is defined in section 1(7) of the Prevention of Discrimination (Guernsey) Ordinance, 2022 as – (a) the total or partial absence of one or more of a person's bodily or mental functions, including the absence of a part of a person's body; (b) the presence in the body of organisms or entities causing, or likely to cause, chronic disease or illness; (c) the malfunction, malformation or disfigurement of a part of a person's body, a condition or malfunction which results in a person learning differently from a person without the condition or malfunction; or (e) a condition, illness or disease which affects a person's thought processes, perception of reality, social interactions, emotions or judgement or which results in disturbed behaviour.

⁶² Examples of responsible adults include: (a) a medical practitioner registered under the Regulation of Health Professionals (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015 or the Regulation of Health Professionals (Medical Practitioners) (Sark), 2017; and (b) a nurse, social worker, occupational therapist, or practitioner psychologist, registered under the Registered Health Professionals Ordinance, 2006.

- in the absence of the persons mentioned above, some other responsible person⁶³ aged 18 years or over who is neither an officer nor employed by any law enforcement agency or prosecuting body.

"Legal responsibility", in relation to a child means the legal responsibility –

- to act as the child's legal representative, or
- to safeguard, preserve and otherwise deal with the child's property.

It includes parental responsibility within the meaning given by the Children (Guernsey and Alderney) Law, 2008 or the Children (Sark) Law, 2016.

192. A person, including a parent or guardian, should not be regarded as an appropriate adult if the person -

- is suspected of involvement in the unlawful conduct to which the investigation relates;
- is involved in the investigation;
- has received admissions from the child prior to attending to act as the appropriate adult;
- is a victim of the unlawful conduct; or
- is a witness.

193. If a child's parent is estranged from the child, the parent should not be asked to act as the appropriate adult if the child expressly and specifically objects to their presence.

194. In the case of a vulnerable interviewee, it may be more satisfactory if the appropriate adult is someone experienced or trained in their care rather than a relative lacking such qualifications. But if the person prefers a relative or objects to a particular person, their wishes should, if practicable, be respected.

195. When an appropriate adult is called to the interview, the interviewee should always be given an opportunity to consult privately with an Advocate and/or a qualified accountant in the absence of the appropriate adult if they wish to do so. An Advocate or qualified accountant present in that capacity may not be the appropriate adult.

⁶³ Examples of responsible adults include: (a) a medical practitioner registered under the Regulation of Health Professionals (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015 or the Regulation of Health Professionals (Medical Practitioners) (Sark), 2017; and (b) a nurse, social worker, occupational therapist, or practitioner psychologist, registered under the Registered Health Professionals Ordinance, 2006.

Role of Advocate and qualified accountant

196. The main role of any Advocate or qualified accountant is to see that the interview is conducted in a fair and proper manner. They may not answer questions on behalf of the interviewee, but they may intervene -
- to seek clarification of questions put during the interview;
 - to challenge a question put by the officer which they consider improper;
 - to challenge the manner in which a question is put;
 - if the interviewee may have a reasonable excuse for failure to comply with the disclosure order, to advise the interviewee whether or not to reply to a question; or
 - to give the interviewee advice.
197. Any request for legal or financial advice and the action taken on it should be recorded on the record and/or taped. If a person has asked for legal or financial advice and an interview is begun in the absence of an Advocate or qualified accountant (or the Advocate or qualified accountant has been required to leave an interview), a note should be made in the interview record.
198. The Advocate or qualified accountant may read any documents shown to, or produced by, the person being interviewed.

Role of appropriate adult

199. Where the appropriate adult is present at an interview, he or she should be informed that they are not expected to act simply as an observer, and that the purposes of their presence are firstly, to advise the interviewee and to observe whether or not the interview is being conducted properly and fairly, and secondly, to facilitate communication with the interviewee.

Person to assist in case of physical disability

200. At all times, officers should have regard to, and consider the needs of, any person who appears to be blind, visually impaired, deaf, unable to read or speak or has difficulty orally because of a speech impediment; and take action accordingly.
201. A person who is blind or is seriously visually impaired may be accompanied by their guide dog. The officer should ensure that the person who is blind or seriously visually impaired has their Advocate, relative, appropriate adult, or some other person likely to take an interest in them (and who is not involved in the investigation) available to help in the checking of any documentation. Where the provisions of this Code require

written consent, the person who is assisting may be asked to sign instead if the interviewee so wishes.

202. An interviewee who is seriously physically impaired may be accompanied by an able-bodied adult aged 18 or over to provide such physical assistance as the interviewee requires. Such a person may take no part in the interview and has none of the rights of the appropriate adult.

INTERPRETERS

General

203. A person should not be interviewed in the absence of a person capable of acting as an interpreter if they -

- are deaf or have difficulties with hearing or speaking; or
- have difficulty in understanding English and the officer conducting the interview cannot speak the interviewee's own language;

unless the interviewee agrees in writing that the interview may proceed without an interpreter.

204. An interpreter should also be present if a child is interviewed and the appropriate adult appears to be deaf or there is doubt about their hearing or speaking ability, unless the appropriate adult agrees in writing that the interview may proceed without one.
205. The interpreter should be provided at the expense of the law enforcement agency for which the officer works. The officer should ascertain, as far as practicable, that the interpreter and the interviewee understand each other, and this should be noted on the interview record. An appropriate adult may not act as the interpreter.
206. Action taken to call an interpreter and any agreement to be interviewed in the absence of an interpreter should be recorded in writing and/or taped.
207. Whenever possible, interpreters should be drawn from the National Register of Public Service Interpreters (NRPSI) or the Council for the Advancement of Communication with Deaf People (CACDP) or the Directory of British Sign Language/English Interpreters.
208. A sign language interpreter should make a note of the interview and certify its accuracy.

Foreign languages

209. The officer should make sure the interpreter makes a note of the interview at the time in the person's language for use in the event of the interpreter being called to give evidence, and certify its accuracy. The officer should permit sufficient time for the interpreter to note each question asked and answered. The person should be permitted to read the record or have it read to them and sign it as correct or indicate the respects in which they consider it inaccurate.
210. In the case of an interviewee making a statement to an officer other than in English -
- the interpreter should record the statement in the language it is made;
 - the interviewee should be invited to sign it; and
 - an official English translation should be made in due course.
211. The interviewer should make sure the interpreter is allowed to read the interview record and certify its accuracy in the event of the interpreter being called to give evidence.

EXCLUDING PERSONS FROM THE INTERVIEW

212. The officer conducting the interview may exclude from the interview a person whose presence is authorised by the provisions of this Code if it appears to the officer that the person is mentally disordered.
213. Subject to paragraph 214 of this Code, the officer conducting the interview may exclude from the interview a person whose presence is authorised⁶⁴ only if the officer has reason to believe that the person is personally involved in the matter under investigation or that the person has, by improper conduct, hindered the proper conduct of the interview. Before excluding any person, the officer conducting the interview should state their reason and note this on the interview record. What amounts to improper conduct will depend on the circumstances of each case. It would almost always be improper conduct for a person to prompt the interviewee, to provide the interviewee with written answers to the questions, or to answer questions on behalf of the interviewee or to interrupt the interview for any reason other than to make a proper representation. Exclusion of any person from an interview is a serious matter which may be subject to comment in court. The officer should therefore be prepared to justify the officer's decision.
214. If the officer has excluded a person from the interview room, the officer should adjourn the interview. The interviewee should be informed that they have the right

⁶⁴ Persons whose presence is authorised are an Advocate, a qualified accountant, an appropriate adult, a person providing assistance and an interpreter.

to seek another person to act in the same role as the person who was excluded. If the interviewee wishes the interview to continue, the officer should record this decision and continue with the interview.

215. If the officer conducting the interview considers that an Advocate or a qualified accountant is acting in such a way as to hinder the proper conduct of the interview, they should cease questioning the interviewee, and whilst the tape recorder is still operating, speak to the Advocate or qualified accountant. After speaking to the Advocate or qualified accountant, the officer should decide whether the interview should continue in the presence of the Advocate or qualified accountant. If the officer decides that it should not, the interviewee should be given the opportunity to consult another Advocate or qualified accountant before the interview continues and that Advocate or qualified accountant should be given the opportunity to be present at the interview.
216. The removal of an Advocate or qualified accountant from an interview is a serious step, and, if it occurs, the officer conducting the interview should consider whether the incident should be reported to the Guernsey Bar, the Law Society, the Law Society of Northern Ireland, Legal Complaints Service, General Council of the Bar, the Institute of Legal Executives or any other appropriate professional body responsible for regulating the professional conduct or discipline of the relevant Advocate. In the case of a qualified accountant, the officer conducting the interview should consider whether the matter should be reported to the accountant's professional body, such as the Institute of Chartered Accountants in England and Wales or the Institute of Chartered Accountants in Northern Ireland.

CONDUCT OF THE INTERVIEW

217. As far as practicable, interviews should take place in interview rooms which are adequately heated, lit and ventilated. People being questioned or making statements should not be required to stand.
218. Breaks from interviewing should be made at recognised meal times or at other times that take account of when the interviewee last had a meal. Short refreshment breaks should be provided at approximately two-hour intervals, subject to the officer's discretion to delay a break if there are reasonable grounds for believing it would prejudice the outcome of the investigation.
219. Any decision to delay a break in an interview should be recorded, with reasons and duration, in the interview record.
220. Where an interview is adjourned for any reason and is to be resumed at the same place later the same day, it should be sufficient for the officer to inform the interviewee of the time of resumption and no notice in writing requiring attendance at that time should be necessary. The details of the adjournment should be noted in the interview record.

221. Where an interview is adjourned for any reason and is to be resumed either at a different place or on a different day, the officer should serve another notice under the disclosure order on the interviewee requiring the interviewee to attend at that place and time on that day.

The officer's obligations at the interview

222. At the beginning of the interview and immediately following any break, the officer should caution the interviewee as follows:

'You are required by law to answer all the questions I put to you unless you have a reasonable excuse for not doing so. If you fail, without reasonable excuse, to answer a question or if you knowingly or recklessly make a statement which is false or misleading you will be committing an offence for which you may be prosecuted. Do you understand?'

223. The officer conducting the interview should also inform the person that this is not a criminal caution and any responses will not be used to incriminate the interviewee.
224. The officer should, if asked to do so, produce evidence of their authority to require the interviewee to answer questions under the disclosure order.
225. The officer may ask such further questions as appear to the officer to be necessary to ascertain the entitlement of any person to be present.
226. The officer should ask the interviewee whether they suffer from any condition which may impair their ability to understand what is taking place or if they are due to take any medication before the time at which the officer estimates that the interview will end. The interviewee should be free to take medication during a routine break in the interview. Where a break is to be taken during the interview, the fact that a break is to be taken, the reason for it, and the time, should be recorded.
227. The officer should remember that it may be necessary to show to the court that nothing occurred during a break or between interviews which influenced the interviewee's recorded evidence. After a break or at the beginning of a subsequent interview, the officer should consider summarising the reason for the break and that nothing happened and confirming this with the interviewee.
228. The officer should pursue all reasonable lines of enquiry, whether these assist or undermine the investigation. What is reasonable will depend on the particular circumstances. Officers should keep this in mind when deciding what questions to ask in an interview.
229. The officer should offer the interviewee the opportunity to ask any questions to clarify the purpose, structure and conduct of the interview.

230. An officer should not try to obtain answers or elicit a statement by the use of oppression.
231. Before concluding the interview, the officer should ask the interviewee if they have any complaint to make about anything that has taken place at the interview.
232. If a question-and-answer record has been taken of the interview because it was not tape recorded, the officer should afford the interviewee the opportunity to read the record. If the interviewee is, for any reason, unable to read the note or if they decline to do so, the officer conducting the interview should read, or cause it to be read, aloud. The officer should invite the interviewee to comment on the note and will add to it any comments made. The interviewee should be invited to sign the note. The officer should then record the time in the presence of the interviewee. If the interviewee is unable for any reason to sign the note, the interviewee may authorise any person present at the interview to sign it on behalf of the interviewee. Where the interviewee refuses to sign the note, or have it signed on their behalf, the officer should record that fact and any reason given for the refusal on the note and have such note countersigned by a senior officer.
233. Whenever this Code requires a person to be given certain information, they do not have to be given it if they are incapable at the time of understanding what is said to them, or is violent or likely to become violent or is in urgent need of medical attention, but they should be given it as soon as practicable.

Recording interviews

234. Interviews should be recorded using recording media. "**Recording media**" means any removable, physical audio and visual recording medium (such as magnetic tape, optical disc or solid state memory) which can be played and copied – it includes audio tapes, recordable discs and video tapes. A record of certain matters arising from the interview should also be made contemporaneously. The matters to be recorded in the note are listed at paragraph 273 of this Code.
235. Recording of interviews should be carried out openly to instil confidence in its reliability as an impartial and accurate record of the interview.
236. One form of record should be the master record and should be sealed before it leaves the presence of the interviewee. A second form of record will be used as a working copy.

Interviews with a written record

237. The officer may authorise that the interview not be recorded by way of recording media where it is not reasonably practicable to do so. This could be due to a failure of equipment or a lack of suitable interview room or recorder if the officer has reasonable grounds for considering that the interview should not be delayed until the failure has been rectified or a suitable room or recorder becomes available.

238. In such cases, the interview should be recorded in writing. In all cases, the officer should make a note in specific terms of the reasons for not using recording media.
239. The written record should be made and completed during the interview unless this would not be practicable or would interfere with the conduct of the interview, and should constitute either a verbatim record of what has been said or, failing this, an account of the interview which adequately and accurately summarises it.
240. If a written record is not made during the interview it should be made as soon as practicable after its completion.
241. Written interview records should be timed and signed by the maker.
242. If a written record is not completed during the interview the reason should be recorded in the record of interview.
243. Unless it is impracticable, the interviewee should be given the opportunity to read the record of interview and to sign it as correct or to indicate how they consider it inaccurate. If the interviewee cannot read or refuses to read the record or sign it, the officer should read it to them and ask whether the interviewee would like to sign it as correct or make the interviewee's mark or to indicate how the interviewee considers it inaccurate. The officer should certify on the interview record itself what has occurred.
244. If the interviewee is unable for any reason to sign the note the interviewee may authorise any person present at the interview to sign it on behalf of the interviewee.
245. If the appropriate adult or the interviewee's Advocate is present during the interview, they should also be given an opportunity to read and sign the interview record or any written statement taken down during the interview.
246. A written record should be made of any comments made by the interviewee, including unsolicited comments, which are outside the context of an interview but which might be relevant. Any such record should be timed and signed by the maker. When practicable the interviewee should be given the opportunity to read that record and to sign it as correct or to indicate how the interviewee considers it inaccurate.
247. When an interviewee agrees to read the record and other comments and sign them as correct, the interviewee should be asked to endorse the record and comments with, for example, *'I agree that this is a correct record of what was said'* and add their signature or mark. If the interviewee does not agree with the record or comments, the officer should record the details of any disagreement and ask the interviewee to read these details and sign them to the effect that they accurately reflect their disagreement. Any refusal to sign should be recorded.

Commencement of interviews

248. When the interviewee is brought into the interview room the officer should, without delay but in the person's sight, load the recorder with new recording media and set it to record. The recording media should be unwrapped or opened in the person's presence.
249. The officer should tell the interviewee about the recording process and state on the record that the interview is being recorded using recording media (identifying what that media is) and that the interviewee will be given a notice about what will happen to the copies of the recording.
250. The officer should -
- inform the interviewee of the authority that the officer has to conduct the interview;
 - give the officer's name and that of any other persons present; but in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving any of those names might put the officer or person concerned in danger, a warrant or other identification number should be given in the case of an officer, and a pseudonym given in the case of any other person; and the name of the law enforcement agency to which the officer is attached;
 - inform the interviewee of the purpose for which any person accompanying the officer is present;
 - ask the interviewee to state their full name and address and date of birth;
 - ask any person present with the interviewee to state their name, business address (or home address as relevant) and capacity in which they are present;
 - state the date, time of commencement and place of the interview;
 - state that the interviewee has the opportunity to request legal and/or financial advice;
 - state and obtain confirmation of the reasons for there being no legal representation if this is the case;
 - inform the interviewee of their right -
 - to consult in private at any time with any Advocate, qualified accountant or appropriate adult present with them;
 - to be questioned fairly;

- to be given an opportunity at the end of the interview to clarify anything they have said or to say anything further if they wish;
 - to be allowed a break in any interview that lasts for more than two hours;
 - inform the interviewee that the interview is recorded and the interviewee will be given a copy of that record;
 - state that the interviewee will be given a notice about what will happen to the record; and
 - attempt to estimate the likely length of the interview and inform the interviewee.
251. For the purpose of voice identification the officer should ask the interviewee, and any other people present, to identify themselves.
252. If the interviewee is deaf or is suspected of having impaired hearing, the officer or the person assisting should make a written note of the interview, at the same time as the recording.
253. If the interviewee indicates that they want to tell an officer about matters not directly connected with the case and that they are unwilling for these matters to be recorded, the interviewee should be given the opportunity to tell the officer at the end of the interview.

Objections and complaints by the interviewee

254. If the interviewee raises objections to the interview being recorded either at the outset or during the interview or a break in the interview, the officer should explain the fact that the interview is being recorded and that the provisions of this Code require that the interviewee's objections should be recorded. When any objections have been recorded, the officer may turn off the recorder. In this eventuality, the officer should say that they are turning off the recorder, give their reasons for doing so and then turn it off. The officer should then make a written record of the interview. If, however, the officer reasonably considers that the officer may proceed to put questions to the interviewee with the recorder still on, the officer may do so.

Changing recording media

255. When the recorder shows the recording media only has a short time left, the officer should tell the interviewee the recording media is coming to an end and finish that part of the interview. If the officer conducting the interview wishes to continue the interview but does not already have a second set of recording media, the officer

should obtain a set. If the officer leaves the room for a second set of recording media, the interviewee should not be left unattended.

256. The officer will remove the recording media from the recorder and insert the new recording media which should be unwrapped or opened in the person's presence. The recorder should be set to record on the new media. To avoid confusion between the recording media, the officer should mark the media with an identification number immediately after it has been removed from the recorder.

Taking a break during interview

257. When a break is to be taken during the course of an interview and the interview room is to be vacated by the interviewee, the fact that a break is to be taken, the reason for it, and the time should be recorded on the recording media. The recording media should then be removed from the recorder, and the procedures for the conclusion of an interview should be followed.
258. Where a break is to be a short one and both the interviewee and the officer are to remain in the interview room, the fact that a break is to be taken, the reasons for it, and the time, should be recorded on the recording media. The recorder may be turned off. There is, however, no need to remove the recording media and when the interview is recommenced, the recording media should be continued on the same recording media. The time at which the interview recommences should be recorded on the recording media.

Failure of recording equipment

259. Where the interview is being recorded and the media or the recording equipment fails, the officer should stop the interview immediately. Where part of the interview is unaffected by the error and is still accessible on the media, that media should be copied and sealed in the interviewee's presence and the interview recommenced using new equipment/media as required. Where the content of the interview has been lost in its entirety the media should be sealed in the interviewee's presence and the interview begun again.
260. If the equipment failure can be rectified quickly, for example by inserting new recording media, the recording of the interview may continue. When the recording is resumed the officer should explain what happened and record the time the interview recommences. If, however, it is not possible to continue recording on that recorder and no replacement recorder is readily available, the interview may continue with a written record.

Removing recording media from the recorder

261. Where recording media are removed from the recorder in the course of an interview, the media should be retained and the procedures as set out below followed.

Conclusion of interview

262. The officer should inform the interviewee that they have no further questions and offer the interviewee an opportunity to clarify anything the interviewee has said and to say anything further that the interviewee wishes. Any Advocate, qualified accountant or appropriate adult present at the interview along with the interviewee should be given the opportunity to ask the interviewee any question the purpose of which is to clarify any ambiguity in an answer given or to give the interviewee an opportunity to answer any question which the interviewee has refused previously to answer.
263. At the conclusion of the interview, including the taking and reading back of any written statement, the time should be recorded, and the recorder switched off. The officer should seal the master recording with a master recording label. The officer should sign the label and ask the interviewee and any third party present during the interview to sign it. If the interviewee or third party refuses to sign the label a senior officer should be called into the interview room and asked to sign it. If the interviewee or third party present during the interview refuses to sign the label, the officer conducting the interview should sign it and note on the label that the interviewee has refused to do so.
264. The interviewee should be handed a notice which explains -
- how the recording will be used; and
 - the arrangements for access to it.

PROCEDURES AFTER THE INTERVIEW

265. A copy of the recording media should be supplied as soon as practicable to the interviewee, if court proceedings connected to the interview are commenced.
266. Where the interview is not subsequently used in proceedings, the recording media should nevertheless be kept securely in accordance with the provisions below.

Recording media security

267. A second recording will be used as a working copy. The master recording is either of the two recordings used in a twin deck/drive machine or the only recording in a single deck/drive machine. The working copy is either the second/third recording used in a twin/triple deck/drive machine or a copy of the master recording made by a single deck/drive machine.

268. The purpose of sealing the master recording in the interviewee's presence is to show that the integrity of the recording is preserved. If a single deck/drive machine is used the working copy of the master recording should be made in the interviewee's presence and without the master recording leaving their sight. The working copy should be used for making further copies if needed.
269. An officer has no authority to break the seal on a master recording media where proceedings may result. A senior officer should make arrangements for master recordings to be kept securely and their movements accounted for. The interviewee or their legal representative should be informed and given a reasonable opportunity to be present if the seal on the master recording is to be broken. If the interviewee or their legal representative is present they should be invited to re-seal and sign the master recording.
270. When the master recording seal is broken, a record should be made of the procedure followed, including the date, time, place and persons present. Where the interview is not subsequently used in proceedings the recording media should nevertheless be kept securely. Where no court proceedings result, it is the responsibility of the officer to establish arrangements for the breaking of the seal on the master recording media, where this becomes necessary.
271. Where no court proceedings result, it is the responsibility of the officer to establish arrangements for the breaking of the seal on the master recording media, where this becomes necessary.

Particular record of actions taken under a disclosure order

272. In addition to the general provisions on taking records, the officer should also keep copies of notices in writing issued under a disclosure order (section 91(3)) together with full details of their issue and response.
273. The record of an interview should contain the following, as appropriate:
- a copy of the invitation to interview letter;
 - the date and place and time of the interview;
 - the time the interview began and ended, the time of any breaks in the interview and the names of all those present; but in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving any of those names might put the officer or person concerned in danger, a warrant or other identification number should be given in the case of an officer, and a pseudonym given in the case of any other person; and the name of the law enforcement agency to which the officer is attached;

- any request made for financial and/or legal advice, and action taken on that request;
 - that the officer told the interviewee everything the officer was required to tell the interviewee under this Code;
 - the name of person(s) excluded from the interview room, and the reason for that decision; and
 - the presence of an interpreter or appropriate adult, and the reason for this.
274. In respect of interviews conducted under the authority of section 91(3), the record of interview should be held with a transcript of the interview. Documents produced at the interview should also be listed on a note of the action taken under the disclosure order. Receipts should be given to the interviewee, and this should also be recorded.

OBTAINING EVIDENCE FROM ABROAD

275. Section 105 makes provision for evidence to be obtained from overseas if a person or property is subject to a civil forfeiture investigation, detained property investigation or frozen funds investigation. This process should be used to obtain "relevant evidence"⁶⁵.
276. His Majesty's Procureur may request overseas assistance at the Procureur's own initiative or as a result of a request made by an officer if the Procureur thinks there is relevant evidence in a country or territory outside the Bailiwick. If a request is made by an officer, the officer should ensure that there is material supporting the officer's belief that there is relevant evidence overseas.
277. "**Relevant evidence**" depends on the type of investigation for which evidence is being requested:
- in relation to a civil forfeiture investigation, evidence is relevant for the purposes of identifying recoverable property or associated property, and includes whether property is or has been recoverable property or associated property, who holds or has held property, what property a person holds or has held, or the nature, extent or whereabouts of property;
 - in relation to a detained property investigation, evidence is relevant for the purposes of investigating the derivation of property or part of property detained under Part III of the Law or the intended use of property so detained; and

⁶⁵ Section 105(4).

- in relation to a frozen funds investigation, evidence is relevant for the purposes of investigating the derivation of money or part of money held in an account subject to an account freezing order (section 60), or the intended use of money so held.
278. Requests for assistance may be sent to the government or a court or tribunal of the country or territory concerned, or any other authority recognised by the government of, or under the laws of, the country or territory concerned as being appropriate for receiving requests of that kind.
279. In a case of urgency, a request may be sent to the International Criminal Police Organisation (Interpol), for onward transmission to a court, tribunal, government or authority in the country or territory concerned.
280. Evidence obtained by means of a request for assistance cannot be used for any purpose other than for the purposes of the investigation for which it was obtained or for the purposes of certain proceedings (or any proceedings arising out of such proceedings)⁶⁶. However, the court, tribunal, government or authority that received the request and provided the evidence can consent to the use of the evidence for other purposes.

⁶⁶ Section 106.