Home Office

Financial orders under part 8 of the Proceeds of Crime Act 2002

This guidance is based on the Proceeds of Crime Act 2002

This guidance is based on Proceeds of Crime Act 2002.

Financial orders under part 8 of the Proceeds of Crime Act 2002

About this guidance

Production orders
Applying for a production order
Search and seizure warrants
Disclosure orders
Customer information orders
Account monitoring orders
Limits on account monitoring orders or customer information orders

This guidance tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about financial orders under part 8 of the Proceeds of Crime Act 2002 (POCA).

It includes:

- what financial orders are and how they assist investigations
- the different kinds of financial orders and how to apply for them
- material produced as a result of a production order
- search and seizure warrants
- offences relating to the orders
- limits on using material gathered under account monitoring orders or customer information orders

For more information, see related link: Proceeds of Crime Act 2002.

Changes to this guidance – This page tells you what has changed since the previous version of this guidance.

Contacts – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.

Information owner – This page tells you about this version of the guidance and who owns it.

Related links
Changes to this guidance
Contact
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Changes to this guidance

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This page lists changes to the 'Financial orders under part 8 of the Proceeds of Crime Act 2002' guidance, with the most recent at the top.

Date of the change	Details of the change
9 March 2015	• production orders and who can apply for them - Extra information on section 55 of the Crime and Courts Act 2013 • applying for an account monitoring order - information on authorising an application for an account monitoring order and updated contact details • applying for a production order - information on authorising an application for a production order and updated contact details • applying for a customer information order – updated contact details – information on authorising and application for a customer information order • minor housekeeping changes
18 July 2013	Completely revised by the modernised guidance team.

Related links:
Production orders and who can apply for them

Applying for a production order

Applying for a customer information order

Applying for an account monitoring order

See also
Contact
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Production orders

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This section tells you the definition of a production order, which is one of the financial orders under part 8 of the Proceeds of Crime Act 2002.

POCA covers production orders in section:

- 345 for England, Wales and Northern Ireland
- 380 for Scotland

For more information on this legislation, see related links.

Under POCA a production order is an order requiring the named person appearing to be in possession or control of the material, to give it to you in a visible or legible condition to take away and provide access to it within the timescale stated in the order.

The timescale on a production order is usually 7 days. It can vary, if the:

- judge decides a shorter or longer period is appropriate
- request cannot be completed in this period, for example, if a bank needs more time to complete a request:
  - in these circumstances you must specify a length of time

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Production orders and who can apply for them
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Section 345 of the Proceeds of Crime Act 2002
Section 380 of the Proceeds of Crime Act 2002

Production orders and who can apply for them

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This page tells you about the orders under the Proceeds of Crime Act 2002 (POCA) that assist with an investigation and who can apply for them.

Under part 8 of POCA an appropriate officer has the power to apply for:

- production orders
- account monitoring orders
- customer information orders
- search and seizure warrants

Under section 378 of POCA, an appropriate officer is:

- an accredited financial investigator
- a customs officer
- a police officer
- an immigration officer (amended by Section 55 of the Crime and Courts Act 2013)

For more information on this legislation, see related link.

Section 55 of the Crime and Courts Act 2013 also amends POCA to provide that for the purpose of a money laundering investigation a senior appropriate officer is one of a rank to be designated by the Secretary of State.

However, although the legislation adding immigration officers as ‘appropriate officers’ has been commenced the Secretary of State has not designated the rank of officer to act as a Senior Appropriate Officer (SAO). These amendments are not yet in force and immigration officers should not use these powers until the Codes of Practice issued pursuant to section 377 POCA have been amended to include immigration officer and the Secretary of State has designated the rank of officer to act as senior appropriate officer.

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Production orders - limits to what you can access

External links

Part 8 Proceeds of Crime Act 2002
Section 378 Proceeds of Crime Act 2002
Section 55 of the Crime and Courts Act 2013

This guidance is based on Proceeds of Crime Act 2002.

	For more information on this legislation, see related link.	

This guidance is based on Proceeds of Crime Act 2002.

Financial orders under part 8 of the Proceeds of Crime Act 2002

Production orders - limits to what you can access

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This page tells you what you do not get automatic access to with a production order.

The Proceeds of Crime Act 2002 (POCA) tells you what you can access in section:

- 348 for England, Wales and Northern Ireland
- 383 for Scotland

For more information on this legislation, see related links:

A person does not have to produce or give access to privileged or excluded material (as defined in section 10 and 11 of the Police and Criminal Evidence Act 1984 (PACE)) for a production order under POCA. For more information on these definitions, see related links.

Privileged material is any material the person can refuse to produce on the grounds of legal professional privilege.

You do not automatically have a right of entry to premises. If the order requires a person to give access to material on any premises, you must apply to the judge for an order to grant entry.

The order to grant entry:

- is to overcome any physical obstacle in serving the order
- does not include the power to search premises

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External links

Section 10 of the Police and Criminal Evidence Act 1984
Section 11 of the Police and Criminal Evidence Act 1984
Section 348 of the Proceeds of Crime Act 2002
Section 383 of the Proceeds of Crime Act 2002

Applying for a production order

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This section tells you how to apply for a production order.

The Proceeds of Crime Act 2002 (POCA) tells you the requirements for applying for a production order in section:

- 346 in England, Wales and Northern Ireland
- 381 in Scotland.

For more information on this legislation, see related links.

Immigration officers (as appropriate officers) and police officers may apply for production orders under POCA legislation. Immigration officers who are not Accredited Financial Investigators (AF) should do so under the supervision of their local Financial Investigation Unit (FIU) Hub. Any POCA orders applied for must be authorised by a Senior Appropriate Officer (SAO) within the Financial Investigations (FI) Hub structure.

Official - sensitive – do not disclose – start of section
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However these amendments are not yet in force and immigration officers should not use these powers until the Codes of Practice issued pursuant to section 377 POCA have been amended to include immigration officer and the Secretary of State has designated the rank of officer to

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Material produced by a production order

External links

Section 346 of the Proceeds of Crime Act 2002
Section 381 of the Proceeds of Crime Act 2002
AFI NPIA FISS log in

act as senior appropriate officer.

You may access the national policing improvement agency (NPIA) financial investigation support system (FISS) website for more information on:

- guidance
- production order templates
- case law
- contacts
- useful updates

Access to FISS is provided to accredited financial investigators. To access FISS, see the related link: AFI NPIA FISS log in.

When you apply for a production order you must have reasonable grounds to suspect the named person has:

- benefitted from criminal conduct in a confiscation investigation
- committed a money laundering offence in a money laundering investigation

You must also have reasonable grounds to believe:

- the person named in the application as being in possession or control of the material, is actually in possession or control of it
- the material is likely to be of substantial value to the investigation you are wanting it for
- it is in the public interest for the material to be provided or for you to be given access to it

On your application you must:

- name the person who is subject to a confiscation or money laundering investigation
- state the order is requested for a confiscation or money laundering investigation
- identify the specific material or describe the type of material you are looking for

	• name a person who appears to possess or be in control of the material • state whether you require production of, or access to, the material	

Material produced by a production order

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This page tells you what to do with the material produced by a production order.

You must copy or keep any material produced by a production order. You must keep the original material:

- for as long as necessary while it is in connection with the investigation the order was made for
- if it is needed for legal proceedings, until the proceedings are finished

Before leaving the premises you must:

- make a list of the articles and documents taken
- give this, and a receipt, to the:
  - occupier
  - subject of the order

If that is not possible, you must:

- make a list of the articles and documents taken
- keep a record of it
- give the subject of the order a copy of the order within seven days of removing the material by:
  - post
  - fax
  - email

If a bank or financial institution is producing material because of a production order they must give the material to the appropriate officer named on the production order. The material is normally sent by post but the appropriate officer can collect it in person if they have a local agreement with the relevant bank or financial institution.

Search and seizure warrants

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This page tells you when you can apply for a search and seizure warrant.

The Proceeds of Crime Act 2002 (POCA) tells you when you can apply for a search and seizure warrant in section:

- 352 for England, Wales and Northern Ireland
- 387 for Scotland

For more information on this legislation, see related links.

Under POCA you must apply for a search and seizure warrant to:

- enter and search a named premises
- seize and keep any material found which is likely to be of substantial value to your POCA investigation

The warrant only applies to premises defined in section 23 of the Police and Criminal Evidence Act 1984 (PACE) and does not allow you to seize privileged material or excluded material, defined in sections 10 and 11 of PACE.

For more information on these definitions, see related links.

You may apply for a warrant if:

- a production order has not been complied with and there are reasonable grounds to believe the material is on the specified premises
- it is not appropriate to seek a production order, for example, the:
  - order would have no effect on the named person
  - investigation would be seriously prejudiced if you cannot gain immediate entry to the premises

External links

Section 10 of the Police and Criminal Evidence Act 1984
Section 11 of the Police and Criminal Evidence Act 1984
Section 23 of the Police and Criminal Evidence Act 1984
Section 352 of the Proceeds of Crime Act 2002
Section 387 of the Proceeds of Crime Act 2002

	You must state on your application for a search and seizure warrant:
	
	• a person specified in the application is the subject of a:
	  ○ confiscation investigation
	  ○ money laundering investigation
	  ○ detained cash investigation
	• the warrant is being requested:
	  ○ as part of the investigation
	  ○ in relation to the specified premises
	• why a production order is not appropriate
	• the specific material you are looking for
	• the reasonable grounds for believing there is material on the premises likely to be of substantial value to the investigation
	
	With a confiscation investigation you must also state:
	
	• whether a specified person has benefitted from criminal conduct
	• to what extent they have benefitted
	• the whereabouts of this benefit
	
	With a money laundering investigation you must also state whether a named person has committed a money laundering offence.	

Financial orders under part 8 of the Proceeds of Crime Act 2002

Disclosure orders

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This section tells you about disclosure orders, which is one of the financial orders under part 8 of the Proceeds of Crime Act 2002.

The Proceeds of Crime Act 2002 (POCA) tells you about disclosure orders in section:

- 357 for England, Wales and Northern Ireland
- 391 for Scotland

For more information on this legislation, see related links.

Disclosure orders are granted in certain circumstances for:

- confiscation
- civil recovery investigations

You cannot make a disclosure order for a money laundering investigation.

A disclosure order requires the person who receives it to:

- answer questions
- provide information
- produce documents

Disclosure orders in confiscation investigations
These can only be applied for by a prosecutor at the request of an appropriate officer.

The request to the prosecutor must:

- name the person who is subject to a confiscation investigation
- state the order is requested for a confiscation investigation

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Section 357 of the Proceeds of Crime Act 2002
Section 391 of the Proceeds of Crime Act 2002

	• identify the specific material or describe the type of material you are looking for • name a person who appears to possess or be in control of the material • state whether you require production or access to the material Your disclosure order must state: • the person specified in the application is subject to a confiscation investigation • the order is requested for a confiscation investigation • property named in the application is subject to a civil recovery investigation • the order is requested for the civil recovery investigation	

Applying for a disclosure order

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This page tells you when you can apply for a disclosure order.

The Proceeds of Crime Act 2002 (POCA) tells you the requirements for applying for a disclosure order in section:

- 358 for England, Wales and Northern Ireland
- 392 for Scotland

For more information on this legislation, see related links.

Only a prosecutor can apply for a disclosure order.

When you ask a prosecutor to apply for a disclosure order you must have reasonable grounds to suspect the named person has:

- benefitted from criminal conduct in a confiscation investigation
- recoverable property in a civil recovery investigation

You must also have reasonable grounds to believe:

- the material is likely to be of substantial value to the investigation that it is for
- it is in the public interest to provide the material

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Section 358 of the Proceeds of Crime Act 2002
Section 392 of the Proceeds of Crime Act 2002

Offences relating to disclosure orders

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This page tells you when a person commits an offence under a disclosure order.

The Proceeds of Crime Act 2002 (POCA) tells you about the offences relating to disclosure orders in section:

- 359 for England, Wales and Northern Ireland
- 393 for Scotland

For more information on this legislation, see related links.

Under POCA a person commits an offence if:

- they fail to comply with a requirement imposed on them under a disclosure order
- when claiming to comply with a disclosure order they:
  - make a statement they know to be false or misleading
  - recklessly make a statement which is false or misleading

If a person is guilty of an offence, they are liable to:

- imprisonment for up to:
  - 2 years on indictment (if they have been found guilty at Crown court)
  - 6 months on summary conviction (if they have been found guilty at magistrates' court)
- a fine
- both of the above

If a disclosure order requires a person to make a statement you must not use it as evidence against them in criminal proceedings. A disclosure order does not require a person to provide you with privileged material. For more information, see related link: Production orders - limits to what you can access.

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External links
Section 359 of the Proceeds of Crime Act 2002
Section 393 of the Proceeds of Crime Act 2002

Customer information orders

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This section tells you about customer information orders, which is one of the financial orders under part 8 of the Proceeds of Crime Act 2002.

The Proceeds of Crime Act 2002 (POCA) tells you about customer information orders in section:

- 363 for England, Wales and Northern Ireland
- 397 for Scotland

For more information on this legislation, see related link.

A customer information order requires a financial institution to provide any customer information which it has relating to the person named in the order.

POCA defines customer information as:

‘information whether the person holds, or has held, an account or accounts at the financial institution’.

The meaning of customer information is covered in section:

- 364 for England, Wales and Northern Ireland
- 398 for Scotland

For more information on this, see related link.

Customer information orders are used to:

- find out if an unidentified account exists
- obtain the relevant customer details

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Section 363 of the Proceeds of Crime Act 2002
Section 364 of the Proceeds of Crime Act 2002
Section 397 of the Proceeds of Crime Act 2002
Section 398 of the Proceeds of Crime Act 2002

They are very resource intensive and time consuming. You must:

- only use them as a last resort when it is proportionate to the investigation
- consider whether you:
  - can get the material you need by a production order
  - have intelligence or a rational reason to believe an unidentified account exists
- give the financial institution as much detail as possible. You must give them the suspect's name and postcode

If an account is held, the customer information includes:

- account number(s)
- date(s) of the account:
  - opening
  - closing
- the person's:
  - full name
  - date of birth
  - most recent address
  - any previous addresses
- evidence of identity the financial institution requested so it complies with the money laundering regulations
- details of joint account holders, these include:
  - name
  - date of birth
  - addresses
- numbers of any other accounts to which the person is a signatory
- details of the account holders

You can also ask for customer information on companies. The information is the same as the above but also includes details such as:

	• VAT numbers • registered offices • place of incorporation • the personal details of individual account signatories	

Applying for a customer information order

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This page tells you when you can apply for a customer information order.

The Proceeds of Crime Act 2002 (POCA) tells you about applying for customer information orders in section:

- 365 for England, Wales and Northern Ireland
- 399 for Scotland

For more information on this legislation, see related links.

Immigration officers (as appropriate officers) and police officers may apply for customer information orders under POCA legislation. This policy restricts application for these orders to accredited financial investigators. Any orders applied for must be authorised by an Senior Appropriate Officer (SAO) within the Financial Investigations (FI) Hub structure.

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You must access the national policing improvement agency (NPIA) financial investigation support system (FISS) website for further information on:

- guidance

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Offences relating to customer information orders

External links

Section 365 of the Proceeds of Crime Act 2002

Section 399 of the Proceeds of Crime Act 2002

AFI NPIA FISS log in

- customer information order templates
- case law
- contacts
- useful updates

Access to FISS is only provided to AFI's. To access FISS see the related link: AFI NPIA FISS log in.

When you apply for a customer information order you must have reasonable grounds to suspect the named person:

- benefited from criminal conduct in a confiscation investigation
- committed a money laundering offence in a money laundering investigation

You must also have reasonable grounds to believe the material the customer information order produces is likely to be of substantial value to the investigation.

You must state on your application for a customer information order:

- a named person is the subject of a confiscation or a money laundering investigation
- the order is requested for the investigation and is against the financial institution(s) specified in the application

You must also specify on your application:

- all financial institutions within a specific geographical area
- a particular description(s) of financial institution(s)

You must serve the customer information order notices produced by the court on the respondent (the financial institution).

If asked by the financial institution you must:

	• demonstrate you have the authority given in the order • provide a copy of original customer information order	

Offences relating to customer information orders

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This page tells you when a financial institution commits an offence under a customer information order.

The Proceeds of Crime Act 2002 (POCA) tells you about the offences relating to customer information orders in section:

- 366 for England, Wales and Northern Ireland
- 400 for Scotland

For more information on this legislation, see related links.

Under POCA a financial institution commits an offence if:

- it fails to comply with a requirement imposed on it under a customer information order without reasonable excuse
- when claiming to comply with a customer information order it:
  - makes a statement which it knows to be false or misleading
  - recklessly makes a statement which is false or misleading

If a financial institution is guilty of an offence it is liable to a fine:

- not exceeding the legal maximum on summary conviction (if they have been found guilty at magistrates' court)
- on conviction on indictment (if they have been found guilty at Crown court)

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Section 366 of the Proceeds of Crime Act 2002
Section 400 of the Proceeds of Crime Act 2002

Account monitoring orders

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This section tells you about account monitoring orders, which is one of the financial orders under part 8 of the Proceeds of Crime Act 2002.

The Proceeds of Crime Act 2002 (POCA) tells you about account monitoring orders in section:

- 370 for England, Wales and Northern Ireland
- 404 in Scotland

For more information on this legislation, see related links.

Under an account monitoring order a financial institution must provide information:

- on a specified account
- for a specified period (not more than 90 days)

Account monitoring orders are very resource intensive and time consuming. You should only use them when it is proportionate to the investigation.

The financial institution must provide the information:

- in the way stated in the order
- by the time stated

Account information usually means transaction details. It relates to an account(s):

- held at the named institution
- in the name of the person in the application, if the account is held solely
- jointly with another person

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Related links

External links

Section 370 of the Proceeds of Crime Act 2002
Section 404 of the Proceeds of Crime Act 2002

Applying for an account monitoring order

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This page tells you when you can apply for an account monitoring order.

The Proceeds of Crime Act 2002 (POCA) tells you about the requirements when applying for an account monitoring order in section:

- 371 for England, Wales and Northern Ireland
- 405 for Scotland

For more information on this legislation, see related links.

Immigration officers (as appropriate officers) and police officers may apply for an account monitoring order under POCA legislation. This policy restricts application for these orders to accredited financial investigators (AFI). Any orders applied for should be authorised by a Senior Appropriate Officer within the Financial Investigations (FI) Hub structure.

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You must access the national policing improvement agency (NPIA) financial investigation support system (FISS) website for further information on:

- guidance

External links
Section 371 of the Proceeds of Crime Act 2002
Section 405 of the Proceeds of Crime Act 2002
AFI NPIA FISS log in

- account monitoring order templates
- case law
- contacts
- useful updates

Access to FISS is only provided to AFIs. To access FISS, see the related link: AFI NPIA FISS log in

When you apply for an account monitoring order you must have reasonable grounds to suspect the named person:

- has benefitted from criminal conduct in a confiscation investigation
- committed a money laundering offence in a money laundering investigation

You must also have reasonable grounds to believe the account information order produced is likely to be of substantial value to the investigation.

You must state on your application for an account monitoring order:

- a person specified in the application is the subject of a:
  - confiscation
  - money laundering investigation
- the order is requested for that investigation
- the order is requested:
  - against the financial institution
  - in relation to the account information specified in the application

Your application must also detail information relating to:

- all accounts held by the specified person
- a particular description(s) of accounts held, such as account:
  - number
  - type

	○ a particular account(s) held (for example if it is a current or savings account) As long as you can justify each request you can make as many repeat applications for an account monitoring order as you need to for the investigation after an existing order expires.	

Limits on account monitoring orders or customer information orders

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This page explains the limits you have on using material obtained under account monitoring orders or customer information orders.

The Proceeds of Crime Act 2002 (POCA) contains a protection against self incrimination in relation to account monitoring orders and customer information orders.

You must not use a statement by a financial institution that was a response to one of these orders as evidence against it in criminal proceedings.

Financial institutions do not have protection against self incrimination under POCA with:

- production orders
- search warrants

You must use this evidence against the financial institution in:

- confiscation proceedings
- instances:
  - of non compliance
  - of perjury
  - when inconsistent statements are provided when giving evidence

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This page explains who to contact for more help with a specific query about the 'Financial orders under part 8 of the Proceeds of Crime Act 2002' guidance.

If you have read this guidance and still need more help with this topic, you must first ask your line manager.

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Changes to this guidance can only be made by the Guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the criminal investigation operational guidance team, using the related link: Criminal investigation operational guidance inbox, who will ask GRaFT to update the guidance, if appropriate.

GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Guidance, rules and forms team.

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This page tells you about this version of the 'Financial orders under part 8 of the Proceeds of Crime Act 2002' guidance and who owns it.

Version	2.0
Valid from date	9 March 2015
Policy owner	Official – sensitive: information removed
Cleared by director	Official – sensitive: information removed
Director's role	Official – sensitive: information removed
Clearance date	17 July 2013
This version approved for publication by:	Official – sensitive: information removed
Approver's role	Official – sensitive: information removed
Approval date	26 February 2015

Changes to this guidance can only be made by the Guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the criminal investigation operational guidance team, using the related link: Criminal investigation operational guidance inbox, who will ask GRaFT to update the guidance, if appropriate.

GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Guidance, rules and forms team.

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