



Ministry of JUSTICE

National Offender Management Service

Confiscation Orders		
This instruction applies to :-		Reference :-
Prisons		PSI 16/2010
Issue Date	Effective Date	Expiry Date
Updated 25 March 2025	09 March 2010	
Issued on the authority of	Operational Policy Sub-board	
For action by	Governing Governors, Directors of Contracted Prisons Staff who deal with sentence calculation Finance staff	
For information	All staff HMCS Regional Confiscation Units HM Revenue and Customs SOCA CPS	
Contact	Prison Operational Policy and Delivery Group: PrisonFrameworks@justice.gov.uk	
Associated documents	PSI 01/2012 Manage Prisoner Finance; Sentence Calculation Policy Framework Home Detention Curfew Policy Framework; Release on Temporary Licence Policy Framework; PSO 4600 Unconvicted, Unsentenced and Civil Prisoners; and Security Categorisation Policy Framework.	
Replaces the following documents which are hereby cancelled :- PSO 4620 and PSI 32/2007 Confiscation Orders		
<p>Updated 25 March 2025: Paragraph 2.4 has been updated to reflect that HMPPS Financial Investigation Unit is responsible for sending monthly data updates to the relevant Prosecution Enforcement Unit and RCU. Updates have also been made to contact details.</p> <p>Updated 30 June 2021: This Instruction has been amended to clarify that prisoners serving a sentence in default of a confiscation order should be treated in line with PSO 4600 Unconvicted Unsentenced and Civil Prisoners. This is reflected at paragraph 3.14. HQ contact details have also been updated. No other changes have been made.</p>		

Audit/monitoring :

Directors of Offender Management will monitor compliance in their region with the mandatory actions set out in this instruction.

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1. Executive summary

Background

- 1.1 The purpose of this instruction is to require governors to have systems in place to ensure that establishments are compliant with the orders and sentences of the court in cases where an offender is subject to a confiscation order. It also reinforces the HMPPS commitment to Public Service Agreement (PSA) 24 – Deliver a more effective, transparent and responsive Criminal Justice System for victims and the public – which is a Government priority.
- 1.2 This guidance applies to confiscation orders made in the Crown Courts of England and Wales only.

Desired outcomes

- 1.3 This instruction aims to ensure that prison staff will be aware of:
 - what a confiscation order is;
 - what mandatory actions must be followed;
 - how default terms should be calculated

Application

- 1.4 [Chapter 2](#) sets out the mandatory actions that must be followed when a confiscation order is received from the Court.
- 1.5 [Chapter 3](#) provides guidance on the confiscation order process which includes; enforcement of orders and transfer to open conditions.

Mandatory actions

- 1.6 *Governors must have a system in place to ensure that when a confiscation order is received from the court, the relevant Prosecution Enforcement Unit and Regional Confiscation Unit (RCU) are informed when there is any change in the circumstances of a prisoner who is subject to a confiscation order.*

Resource Impact

- 1.7 There are no additional resource implications.

Signed

Yaser El-Borgi
Deputy Director, Prison Operational Policy and Delivery Group

2. Operational instructions

- 2.1 *It is a requirement that the Prosecution Enforcement Units and HMCS Regional Confiscation Units (RCU) must be kept informed about prisoners who have had a confiscation order made against them. The confiscation order will indicate which Prosecution Unit is enforcing the order and a list of contact details for Prosecution Enforcement Units can be found at Annex B. In addition to this, the RCU in the region where the Order originated from must also be kept informed and contact details can be found at Annex C. **Do not send information to the RCU in your region unless the originating court falls within the enforcement area.***
- 2.2 *Governors must have a system in place to ensure that when a confiscation order is received from the court, the relevant Prosecution Enforcement Unit and RCU are informed by email when the particular prisoner concerned:*
- *obtains a parole hearing date and additionally the outcome of the hearing;*
 - *is to be recategorised to Category D/open conditions;*
 - *is to be transferred to another prison NB: highlight if this is an open prison;*
 - *receives an amended release date as a result of ADA's, UAL, Appeal etc or receives a further sentence or a default warrant is issued and additionally when the default term is served;*
 - *is to be released on Home Detention Curfew;*
 - *is to be released on temporary licence (ROTL);*
 - *is to be administratively removed, deported, repatriated or is an illegal immigrant;*
 - *dies whilst in custody.*
- 2.3 *The relevant Prosecution Enforcement Unit and RCU must also be advised, by email of:*
- *the receipt of a production order;*
 - *the release date of a prisoner with an outstanding confiscation order;*
 - *the release address details;*
 - *where applicable, details of prisoner's offender manager and office they have to report to.*
- 2.4 *On a monthly basis, the relevant Prosecution Enforcement Unit and RCU must be kept informed of the value of any funds greater than £250 held by the prisoner who is subject to a confiscation order. This will be carried out by HMPPS Financial Investigation Unit.*

Home Detention Curfew

- 2.5 *Prisoners are not eligible for HDC on a default term imposed for failure to pay a confiscation order. The prisoner may have been eligible for HDC on the principal sentence, and in this situation HDC may still be possible with the default term commencing on the HDCAD. Advice on HDC can be obtained from [the HDC Policy Framework](#) or contact release.policy@justice.gov.uk*

Release on temporary licence

- 2.6 *For guidance on release on temporary licence and confiscation orders please refer to the [ROTL Policy Framework](#). Advice on ROTL can be obtained from release.policy@justice.gov.uk*

Early release on a warrant of commitment in default of payment on a confiscation order.

- 2.7 *Such terms cannot form part of a single term/be aggregated with a sentence of imprisonment. They are always ordered to run consecutively and so will commence on the day after the last custodial day of the sentence of imprisonment.*
- 2.8 *The early release arrangements are:*
- *Where the warrant of commitment is dated before 4 April 2005 and the term is for less than 12 months, release is at the halfway point. If the term is for 12 months or more, release is at the two thirds point.*
 - *Where the warrant of commitment is dated on or after 4 April 2005 release is at the halfway point whatever the length of the term.*
 - *Release is unconditional.*
- 2.9 *Where a consecutive warrant of commitment is received and the prisoner receives a recommendation for release on parole, on the earlier sentence of imprisonment, then the prisoner must be notionally released on licence from the sentence of imprisonment but retained in custody to serve the confiscation order unless the order is paid. In such circumstances establishments must ensure that the warrant is executed.*
- 2.10 *Further guidance on sentence calculation issues can be found in [Sentence Calculation Policy Framework](#)*

3. Guidance

What is a confiscation order?

- 3.1 A confiscation order is part of the sentence passed on an offender. In most cases, however, the confiscation order is imposed after the rest of the sentence has been determined. The confiscation order is aimed at depriving an individual of their criminal benefit. The questions of determining that benefit and then how the individual can pay the order can be complex and require lengthy hearings in their own right. For this reason, offenders may start serving their sentence before a confiscation order has been made.
- 3.2 Confiscation orders can be made under three Acts:
The Criminal Justice Act (CJA) 1988 (as amended);
The Drug Trafficking Act (DTA) 1994; and
The Proceeds of Crime Act 2002 (POCA).
- 3.3 For criminal conduct prior to 24th March 2003, the confiscation order must be made under CJA or DTA. Confiscation orders must be made under POCA for criminal conduct that occurs on or after 24th March 2003.
- 3.4 To make a confiscation order, a judge has to determine the extent of an offender's benefit from his/her crime(s) and make the order in that sum unless the offender is able to demonstrate that his capacity to pay is less than the benefit figure. In such a case, the order is made on the basis of the lesser figure representing the offender's capacity to pay.
- 3.5 When making a confiscation order, a judge must fix a term of imprisonment which the offender should serve if he/she fails to pay the order and no other enforcement method might be effective. The maximum amount of the default term depends on the size of the confiscation order. Whatever the maximum term, the judge must fix the length of the default term at the level he/she considers necessary in order to force payment. The judge may also give the offender time to pay the order. The table below sets out the default term on size of confiscation order:

Confiscation Order	Default Term
Orders not exceeding £200	7 days
Orders exceeding £200 but not exceeding £500	14 days
Orders exceeding £500 but not exceeding £1,000	28 days
Orders exceeding £1,000 but not exceeding £2,500	45 days
Orders exceeding £2,500 but not exceeding £5,000	3 months
Orders exceeding £5,000 but not exceeding £10,000	6 months
Orders exceeding £10,000 but not exceeding £20,000	12 months
Orders exceeding £20,000 but not exceeding £50,000	18 months
Orders exceeding £50,000 but not exceeding £100,000	2 years
Orders exceeding £100,000 but not exceeding £250,000	3 years
Orders exceeding £250,000 but not exceeding £1,000,000	5 years
Orders exceeding £1,000,000	10 years

Confiscation Order Process

- 3.6 An application for the court to make a confiscation order will be made by the prosecuting authority, for example the Crown Prosecution Service (CPS) or Revenue and Customs Prosecutions Office (RCPO). The offender can appeal against the decision or can

appeal against the amount of the order.

- 3.7 The confiscation order process starts after conviction when the prosecutor applies in the Crown Court to make a confiscation order.
- 3.8 The prosecution, working with law enforcement financial investigators prepare a case for the making of a confiscation order. This case is presented at a confiscation hearing in the Crown Court where a judge decides whether to impose the order and if so, in what amount.
- 3.9 At this point, the offender can appeal against the confiscation order and/or the amount. If the appeal is successful, the order will either be quashed, or a variation to the order will be made.
- 3.10 If the confiscation proceedings were under POCA, the prosecution can also appeal against the failure to impose an order or the amount of the order.
- 3.11 The Crown Court will notify all relevant parties, including the Governor/Director if the offender is in custody, of the confiscation order. At each stage the offender should be notified by the enforcement authority of what is expected of him/her, the outcome of appeals and the outstanding balance of the confiscation order. They will receive notification of the date by which the monies must be paid and the implications of non-payment. The prison may become involved in the payment of the confiscation order, and will be informed of who requires the monies by the enforcement authority if this is the case, but this is unlikely as given the sums involved, the majority of offenders will deal with it through their legal adviser.

Nominal Orders

- 3.12 In some cases, where the offender has no money or realisable assets, the Crown Court will make a nominal order e.g. £1.00. This enables law enforcement to revisit the case if further assets come to light at a later date or the individual benefits financially; for example from an inheritance. In cases where a prisoner has a nominal order of over £10 please contact relevant Prosecution Enforcement Unit and RCU to ensure they are made aware of any change in the prisoner's circumstances.

Failure to pay/Enforcement of Order

- 3.13 If the offender does not pay all of the confiscation order before the time to pay has expired, he/she will accrue interest at 8% per annum on the unpaid balance. If the amount of interest together with the unpaid balance takes the confiscation order within a new band on the default sentence table (paragraph 3.5 refers), the prosecution can apply to the court to increase the default sentence in accordance with the new maximum default term.
- 3.14 An offender will not serve his/her default term unless a magistrates' court orders that he/she should do so (issuing a warrant of committal). Before making that order they must find that the offender has failed to pay the order and considered that no method of enforcing payment appears to be effective. A prisoner serving a term in default of a confiscation order is to be treated as a civil prisoner, in accordance with [PSO 4600 Unconvicted, Unsented and Civil Prisoners](#). This applies to all such prisoners with any warrant of committal in place.
- 3.15 If an offender has served the custodial element of his/her sentence before a confiscation order is made, the magistrates' court can issue a warrant for his arrest so that he/she is produced before the court considering whether to activate the sentence. But an offender cannot be extradited simply to serve a default term.

- 3.16 The prisoner can still choose to pay some or all of the confiscation order and if he/she does so they will not serve the portion of the term which has been paid. The court will inform the prison of the effect of any payment on the default term. Serving the default term does not remove the requirement to pay the confiscation order, but the offender cannot serve another term in respect of the same sum. However, he/she should be made aware that they can be given a further term in default by the court in respect of significant accrued interest.
- 3.17 Whenever the prisoner makes payment against the confiscation order, the enforcement authority/court will inform the prison. It is therefore crucial to keep the enforcement authority informed if the prisoner moves so that communication does not get delayed with the risk that the prisoner serves excess days.
- 3.18 The criminal proceedings against the offender come to an end only when the confiscation order is settled in full.
- 3.19 The guidance on calculating the release dates for terms in default can be found in the [Sentence Calculation Policy Framework](#).

Transfer to open conditions

- 3.20 The fact that a prisoner is subject to a confiscation order should not necessarily preclude a transfer to open conditions. However, the following factors should be considered when assessing risk; particularly the risk of abscond:
- Whether the offender is in default and the size of the outstanding confiscation order;
 - Whether the offender may have hidden his/her assets abroad and therefore may abscond to be able to access them or make it harder for the authorities to find them or access them by no longer being able to be questioned on their whereabouts or to sign powers of attorney over them.

It is important to contact the relevant enforcement agencies who may have information that will assist when making decisions in these circumstances.

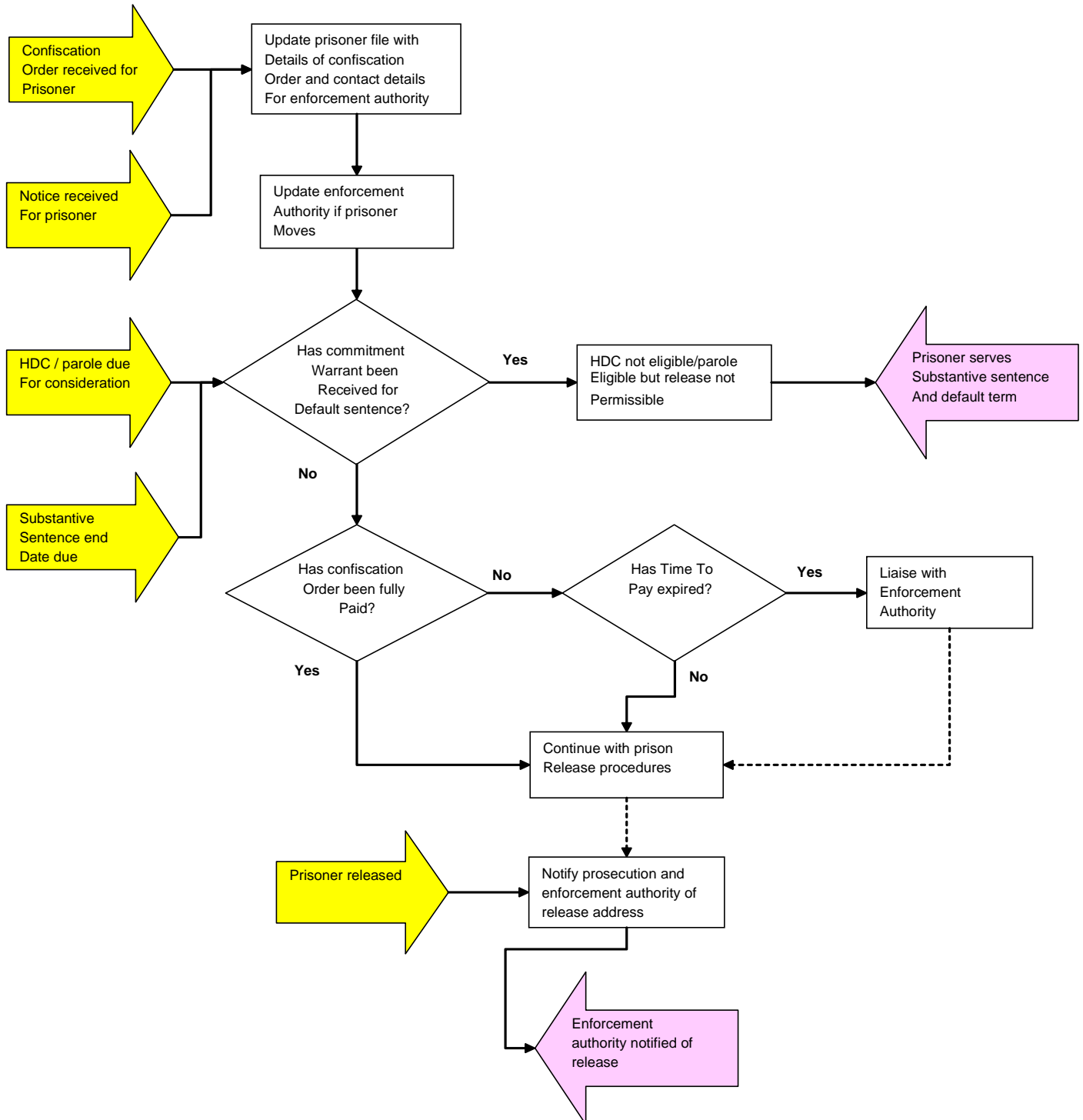
- 3.21 If a prisoner is already in open conditions when a confiscation order is imposed, this is an issue which may necessitate recategorisation.

Production of category A prisoners

- 3.22 The relevant enforcement authority has been instructed to put all requests for production of Category A prisoners through the Long Term and High Security Prisons Group, emphasising our preference for a secure court such as Belmarsh or the use of video link. It specifies that the offender must not be informed of the hearing date. They will write to the prisoner to inform him/her that a hearing is to be scheduled, but without the date. Long Term and High Security Prisons Directorate will be informed once the date and venue are set. If the arrangements are agreed, the offender's solicitor will be informed about three days prior to the hearing. They emphasise that there should be only one hearing as any further hearing date would be set in court and be known to the offender.
- 3.23 If you have any questions regarding the production of a Category A prisoner to a hearing related to a confiscation order, please contact Cat A Section.

Annex A

The flowchart below shows the confiscation order process which covers all the actions required to be taken by the establishment when an offender is serving his/her sentence.



Annex B

Enforcement/Prosecuting Authorities: Address & Contact Details

NCA: Contact Details

Email: ACE.Team@nca.gov.uk

CPS: Contact Details

Email: cpspoc@cps.gov.uk

HM Revenue & Customs: Contact Details

Email: omu@hmrc.gsi.gov.uk

PSI 16-2010 Annex C – List of Regional Confiscation Units

Regional Confiscation Unit	Dedicated Email address
London	
London	LCCCconfiscationunit@justice.gov.uk
Midlands	
Staffordshire Warwickshire West Mercia West Midlands Derbyshire Leicestershire Lincolnshire Northamptonshire Nottinghamshire	emconf.unit@justice.gov.uk
North East	
Cleveland	wy-ne-confiscationunit@justice.gov.uk

Durham Humberside Northumbria North Yorkshire South Yorkshire West Yorkshire	
North West	
Cheshire Cumbria Greater Manchester Merseyside Lancashire	wy-ne-confiscationunit@justice.gov.uk
	-
South East	
Bedfordshire Cambridgeshire Essex Hertfordshire Kent Norfolk Suffolk Surrey Sussex Thames Valley	ke-confiscationregse@justice.gov.uk
	-
Wales & South West	
Avon & Somerset Devon & Cornwall Dorset	av-confiscation.sw@justice.gov.uk

Gloucestershire Hampshire & IoW Wiltshire	
	-

HQ policy

Equality Impact Assessment – Annex A

Policy	Confiscation Orders
Policy lead	Nina Revell
Group	Safer Custody & Offender Policy
Directorate	Commissioning and Operational Policy

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What is an Equality Impact Assessment (EIA)?

An EIA is a systematic appraisal of the (actual or potential) effects of a function or policy on different groups of people. It is conducted to ensure compliance with public duties on equality issues (which in some areas go beyond a requirement to eliminate discrimination and encompass a duty to promote equality), but more importantly to ensure effective policy making that meets the needs of all groups.

Like all other public bodies, the National Offender Management Service is required by law to conduct impact assessments of all functions and policies that are considered relevant to the public duties and to publish the results.

An Equality Impact Assessment must be completed when developing a new function, policy or practice, or when revising an existing one.

*In this context a **function** is any activity of the Prison Service, a **policy** is any prescription about how such a function is carried out, for instance an order, instruction or manual, and a **practice** is the way in which something is done, including key decisions and common practice in areas not covered by formal policy.*

If you are completing this document as part of the OPG process, you must complete and return it together with the final Business case for OPG approval and publication alongside the **PC/PSI/PSQ.**

Your Equalities team

It is important that all policies are informed by the knowledge of the impact of equalities issues accumulated across the organisation. Early in the policy development process, and before commencing the EIA, please contact the relevant equalities team to discuss the issues arising in your policy area.

- HR issues – Staff Diversity and Equality Team – 020 7217 6090 or frank.colyer@noms.gsi.gov.uk
- Service delivery issues relating to gender and younger offenders – Women and Young People's Group – 020 7217 5048 or matthew.armer@noms.gsi.gov.uk
- All other service delivery issues – Race and Equalities Action Group – 020 7217 2521 or REAG@noms.gsi.gov.uk

The EIA process

The EIA has been constructed as a two-stage process in order to reduce the amount of work involved where a policy proves not to be relevant to any of the equalities issues.

The initial screening tool should be completed in all cases, but duplication of material between it and the full EIA should be avoided. For instance, where relevance to an equalities issue is self-evident or quickly identified this can be briefly noted on the initial screening and detailed consideration of that issue reserved for the full EIA.

Further guidance on this will be given by the relevant equalities team.

Stage 1 – initial screening

The first stage of conducting an EIA is to screen the policy to determine its relevance to the various equalities issues. This will indicate whether or not a full impact assessment is required and which issues should be considered in it. The equalities issues that you should consider in completing this screening are:

- Race
- Gender
- Gender identity
- Disability
- Religion or belief
- Sexual orientation
- Age (including younger and older offenders).

Aims

What are the aims of the policy?

The aims of the policy are to ensure prison staff fully understand how prisoners who are subject to a confiscation order are managed while in custody. The policy is process driven and sets out NOMS' responsibilities to inform the relevant enforcement agencies about an individual's circumstances while in custody. The purpose of the confiscation order is to deprive an individual of the financial benefit they may have obtained from criminal conduct.

Effects

What effects will the policy have on staff, offenders or other stakeholders?

The revised instruction will provide clear and concise instructions to staff, prisoners and their legal representatives about the confiscation order process and how it is applied to prisoners who are subject to a confiscation order.

Evidence

Is there any existing evidence of this policy area being relevant to any equalities issue?

Identify existing sources of information about the operation and outcomes of the policy, such as operational feedback (including local monitoring and impact assessments)/Inspectorate and other relevant reports/complaints and litigation/relevant research publications etc. Does any of this evidence point towards relevance to any of the equalities issues?

A confiscation order is part of the sentence passed on an offender. There is no evidence to show that the various diversity stands are affected by the policy.

Stakeholders and feedback

Describe the target group for the policy and list any other interested parties. What contact have you had with these groups?

Target group are prison staff; particularly staff who deal with sentence calculation and recategorisation. Interested parties are the enforcement agencies which include; HM Revenue and Customs, SOCA, CPS and HM Court Service.

Do you have any feedback from stakeholders, particularly from groups representative of the various issues, that this policy is relevant to them?

Yes. Feedback received from staff/Unions/Enforcement Agencies is that the policy is clear.

Impact

Could the policy have a differential impact on staff, prisoners, visitors or other stakeholders on the basis of any of the equalities issues?

No

Local discretion

Does the policy allow local discretion in the way in which it is implemented? If so, what safeguards are there to prevent inconsistent outcomes and/or differential treatment of different groups of people?

No

Summary of relevance to equalities issues

Strand	Yes/No	Rationale
Race	No	Confiscation Order is determined by the Courts and is relevant to the criminal sentence and POCA.
Gender (including gender identity)	No	Confiscation Order is determined by the Courts and is relevant to the criminal sentence and POCA.
Disability	No	Confiscation Order is determined by the Courts and is relevant to the criminal sentence and POCA.
Religion or belief	No	Confiscation Order is determined by the Courts and is relevant to the criminal sentence and

Strand	Yes/No	Rationale
		POCA.
Sexual orientation	No	Confiscation Order is determined by the Courts and is relevant to the criminal sentence and POCA.
Age (younger offenders)	No	Confiscation Order is determined by the Courts and is relevant to the criminal sentence and POCA.
Age (older offenders)	No	Confiscation Order is determined by the Courts and is relevant to the criminal sentence and POCA.

If you have answered 'Yes' to any of the equalities issues, a full impact assessment must be completed. Please proceed to STAGE 2 of the document.

If you have answered 'No' to all of the equalities issues, a full impact assessment will not be required, and this assessment can be signed off at this stage. You will, however, need to put in place monitoring arrangements to ensure that any future impact on any of the equalities issues is identified.

Monitoring and review arrangements

Describe the systems that you are putting in place to manage the policy and to monitor its operation and outcomes in terms of the various equalities issues.

Directors of Offender Management will monitor compliance in their region with the mandatory actions set out in the Confiscation Orders instruction.

State when a review will take place and how it will be conducted.

N/A

	Name and signature	Date
Policy lead	Nina Revell	30/10/09
Head of group	Pat Baskerville	30/10/09

Stage 2 – full Equality Impact Assessment

Where relevance to one or more equalities issues has been identified during the Initial Screening, a full equality impact assessment must be carried out.

This involves the collection of monitoring data and other relevant information and consultation with stakeholders with a view to producing a full account of the relevant equalities issues and an action plan to address them.

Summary of issues identified during initial screening

Briefly identify which equalities issues you will be considering and the results of the initial screening.

Management and monitoring

Describe the systems in place to manage the policy and to monitor its operation and outcomes.

Comment on the adequacy of the systems and note any improvements that you will make to them. Include a description of and/or extracts from recent monitoring results and provide analysis of them.

Evidence

If you have not already done so in Stage 1, identify other sources of information about the operation and outcomes of the policy, such as operational feedback (including local monitoring and impact assessments)/inspectorate and other relevant reports/complaints and litigation/relevant research publications etc.

Summarise and discuss recent relevant evidence from these sources.

Consultation

If you have not already done so in Stage 1, identify the target group and other interested parties.

Explain how you have involved stakeholders, both generally in the development of the policy and specifically how groups representative of the relevant equalities issues (including 'hard-to-reach groups') have been engaged as part of the EIA process.

Capture main points of feedback from them.

Discussion

Consider and compare results from previous sections.

Consider in particular issues of stakeholder confidence and local discretion.

Conclusion

Summarise and make an overall assessment of the impact of the policy or function on the relevant equalities issues. Identify any adverse impact on any group.

Highlight examples of success and good practice.

Describe the key issues that remain to be addressed.

Action plan

Issue to be addressed	Action to be taken	Manager responsible	Target date
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Publication

Describe the arrangements for making the document available to the various stakeholders.

Review

Indicate method for reviewing progress on the action plan and proposed date for formal review of the EIA.

Name and signature	Date
Policy lead	
Head of group	
