

1. OVERVIEW

This document outlines the procedures to be followed by Cabinet Office ("CO") staff who have obtained security clearance to undertake the issue, review, renewal and cancellation of warrants under the Interception of Communications Act 1988 ("IoCA") and the Theft Act 1981 ("TA") which form part of the statutory duties of the CO.

Warrants must be authorised by the Chief Minister or, in his absence, the Minister for Home Affairs who may act on his behalf, having consulted with Her Majesty's Attorney General or Her Majesty's Solicitor General (or a law officer in the Attorney General's Chambers acting on their behalf).

Section 2(2) of IoCA states that the Chief Minister shall not issue a warrant under this section unless he considers that the warrant is necessary:

- a) in the interests of national security;
- b) for the purpose of preventing or detecting serious crime¹.

At the end of the calendar year warrants and supporting documents are reviewed by the Interception of Communications Commissioner ("IoCC"), as required under s9 of IoCA, to ensure the functions conferred to the Chief Minister are being carried out in accordance with the legislation and a report is produced by the IoCC in respect of these functions.

2. PURPOSE

The purpose of these procedures is to ensure that warrant requests are processed in line with the relevant legislation, within the required timeframe and that the highest level of governance is maintained throughout the process.

3. SCOPE

These procedures apply to the members of CO staff with the relevant security clearance engaged in the administration and processing of warrants.

***Note:** These procedures do not include the processes or policies of any other agency associated with the warrant process, however reference is made to these procedures and policies to provide evidence that the appropriate governance is in place at each 'touch point'.*

4. LEGISLATION AND BEST PRACTICE

The following documents provide the legal context and guidance for the implementation of, and adherence to, these procedures:

- Interception of Communications Act 1988 Theft Act 1981
- Human Rights Act 2001
- IOMC IoCA Standard Operating Procedure
- IOMC Interception of Communications Policy

¹ Section 50: Police Powers and Procedures Act 1998; Paragraph 1, Schedule 3: Proceeds of Crime Act 2008; Section 33 (4) (a): Regulation of Surveillance etc Act 2006

- Financial Regulations – FG11 (8 to 13) – Cash Control (in respect of the storage of 'valuables')

5. RESPONSIBILITIES

Those members of staff engaged in the administration and processing of warrants must ensure that the procedures outlined within this document are complied with. At all times these duties must be carried out with the utmost secrecy and security and must not be discussed in any way with other staff members, apart from colleagues with the relevant security clearance if and when deemed necessary.

Pursuant to s9(3) of IoCA:

'It shall be the duty of every person holding office under the Crown or engaged in the business of the Post Office or in the running of a courier service or a public telecommunications system to disclose or give to the commissioner such documents or information as he may require for the purpose of enabling him to carry out his functions under this section.'

6. CONFLICTS OF INTEREST

In the event that the person or persons who is/are the subject(s) [or associated with the subject(s)] of a warrant is/are known to anyone involved with the administration or authorisation of the warrant(s) the following process is to be adhered to in order to ensure any conflicts of interest are managed appropriately.

For the purposes of these procedures a conflict of interest is defined as:

An actual, perceived or potential situation in which anyone involved with the administration or authorisation of a warrant has an interest sufficient to appear to influence the objective exercise of their official duties, responsibilities or powers.

In the event of an actual, perceived or potential conflict of interest being declared, that person will have no involvement in any matter associated with the administration or authorisation of any warrant for the operation being undertaken.

Should a question arise in respect of whether a conflict exists, advice will be sought from the Attorney General's Chambers.

The following details will be recorded and retained with all other documents associated with the operation:

- The name of the person conflicted
- The nature of the conflict
- The official duties, responsibilities or powers with which the person's interest could potentially conflict, or could reasonably be perceived to conflict
- The actions taken to manage the conflict
- A signed declaration by the person conflicted acknowledging the above

7. DETAILS OF THE PROCEDURES

(a) Procedure for the Issue of a Warrant – form “Application for the Issue of Warrants” is to be used and completed electronically. This form provides the workflow of the process.

(b) Procedure for Review of a Warrant – all valid warrants are reviewed at least every 14 days after issue up to a maximum of **two months** from the date of issue, after which time a renewal application must be made; see (c) “Procedure for Renewal of Warrant”.

Form “Application for the Review of Warrants” is to be used and completed electronically. This form provides the workflow of the process.

Review documentation is not sent to the agency making the application and they do not have to be advised of the outcome of the Review, unless it is no longer deemed to be valid.

(c) Procedure for Renewal of Warrant – if it is deemed necessary for a warrant to remain active after two months a renewal application must be made. Renewals are processed in the same way as an issue of a new warrant; see (a) “Procedure for the Issue of a Warrant”, albeit the wording of the renewal warrant differs from that which is used for a new warrant application.

All renewal warrants are reviewed at least every 14 days after issue up to a maximum of **one month** from the date of issue, after which time a further renewal application must be made.

Form “Application for Renewal of Warrants” is to be used and completed electronically. This form provides the workflow of the process.

(d) Procedure for Issuing a Cancellation of a Warrant – form “Application for Cancellation of Warrants” is to be used and completed electronically. This form provides the workflow of the process.

(e) Procedure at end of Operation – form “End of Operation” is to be used and completed electronically. This form provides the workflow of the process.

(f) Procedure for Completion of Summary Sheet – form “Summary Sheet” is used and completed electronically once notified by the agency that the operation has been concluded. This is then adhered to the back of a Chief Minister’s Office white envelope. Documents pertaining to the operation are put inside then it is sealed. The form is signed by the CO officer. The envelope is then delivered by hand to the Chief Registrar’s office.

8. Retention and Disposal Schedule of Information and Records

(a) Cabinet Office

Title of Record:	Retention requirement:	Retention/disposal period:	Action(s):
Original warrant Application [Issue, Review, Renewal, Cancellation]	Retained per operation	To end of operation	Returned to IOMC at the end of each operation
Copy of IoCA forms [see 7 (a) – (e)]	Retained per operation	To end of operation	To be disposed of by relevant security cleared officers – to be shredded/deleted

[PROCEDURES FOR THE ISSUE, REVIEW, RENEWAL AND CANCELLATION OF WARRANTS UNDER THE INTERCEPTION OF COMMUNICATIONS ACT 1988 AND THEFT ACT 1981]

			securely. DO NOT dispose of with other CO confidential material
Copy of warrants	Retained per operation	To end of operation	See above

(b) Retention Periods - All Agencies:

	New Warrant:	Review:	Renewal:	Cancellation:
IOMC	IOMC Application and 1 x copy of Warrant retained for 7 years	IOMC Application retained for 7 years	IOMC Application and 1 x copy of Warrant retained for 7 years	IOMC Application and 1 x copy of Warrant retained for 7 years
Chief Registrar	1 x copy of form "Application for Issue of Warrants" and 1 x copy of Warrant retained indefinitely in line with s6(5) of IoCA	1 x copy "Application of Review of Warrants" retained indefinitely in line with s6(5) of IoCA	1 x copy "Application of Renewal of Warrants" form 1 x copy of Warrant retained indefinitely in line with s6(5) of IoCA	1 x copy "Application for Cancellation of Warrants" and 1 x copy of Warrant retained indefinitely in line with s6(5) of IoCA
	Note: The register of warrants (manual document) is held by the Chief Registrar and retained indefinitely.			
Service Providers	Original warrant securely destroyed when ceased.	N/A	Original warrant securely destroyed when ceased.	Original warrant securely destroyed when ceased.