

Return of Evidential Material

When an SFO case is completed, the material that has been gathered and produced in the course of an investigation and prosecution must be considered by the case team to establish:

- What material should be restored;
- What material should be destroyed;
- What material should be archived.

For more information see “Archiving”.

Cases discontinued at the investigation phase

Where the SFO does not prosecute a case following an investigation, physical property in the possession of the SFO should be returned to the person from whom it was seized/received in the normal way. Priority should be given to the return of material on which the owner is particularly dependent (for instance a computer relied upon by someone because of a disability).

Images of that information should also be destroyed unless:

- It is “tainted information” i.e. potentially relevant to another offence;
- It would be impossible to separate the images from other information that SFO can properly retain, for example because it was relevant to another linked SFO case;
- The separation of the images from other material that SFO can properly retain will incur considerable cost, although this must be considered on a case by case basis.

Code B of PACE 1984 is relevant and in particular Note 7E in the Notes for Guidance to Part 7 on Seizure and Retention of Property. Note 7E states that:

'Requirements to secure and return property apply equally to all copies, images or other material created because of seizure of the original property.'

Once original material is returned and electronic copies destroyed, the amount of material for archiving will be low. It will however include the contents of the policy file.

For more information on policy files see “Case Documentation”.

Cases which SFO prosecutes

When a SFO prosecution is completed the case papers will need to be sorted and categorised. This will normally be undertaken by the case secretary, with assistance from other members of the case team.

It will be necessary to give careful thought as to what material is kept in archive and what material is returned or destroyed.

It is important to avoid retention of duplicate material. For example, papers recovered from counsel will normally be destroyed as there will be other copies. However if counsel has made notes on the papers that relate to key decisions, case strategy etc it may be appropriate to keep them.

There is a presumption that original evidential items should be returned to owners (witnesses, victims and defendants) unless there is an intrinsic quality which requires it to be retained, for example,

1. It is necessary for the appeal process
2. It is related to other cases
3. It was created for a criminal activity or as part of a fraud

Priority should be given to the return of material on which the owner is particularly dependant (for instance a computer relied upon by someone because of a disability).

Electronic evidence is to be backed up and sent off site.

Material Management and Evidential Material

The Material Management Team (MM) act as guardians of all evidential material held at Elm House, utilising either the Document Control System (DCS) or DocMan, the SFO's two evidence management systems.

Evidential material is registered on the DCS or DocMan and all movements are recorded in movement books or on the Electronic Movement Book (EMB) for DocMan cases by the MM.

When a case is completed, material may need to be restored, destroyed or archived. This process should be handled by the case team with MM assistance.

Responsibility for return of evidential material to its owner depends on the system it is recorded on and in relation to the DCS, the status of the case it relates to.

Restoring Evidence

If the case is active the responsibility for restoring evidence lies with the case team.

If the case is concluded, MM will undertake the task of restoration, following clear instructions from the case team. It is the responsibility of the case team to supply MM with an up to date and accurate address of the recipient of material which is to be restored.

Restoring Evidence in DCS cases

Restoring evidence in DCS cases depends on the status of the case.

1. If the case is active the responsibility for returning material lies with the case team.
2. If the case has concluded, then MM has responsibility to return, archive or destroy the material.

Active Cases - When material is to be restored, the case team will request that material from the MM in the usual manner, by email, informing MM that the material is to be returned to its owner.

Following such a request, SGV will print off an "oracle report". Based on this report, MM will hold a receipt of all material which is restored.

The case team book the material out through the movement books, recording that the material has been restored.

The original receipts are given back to MM for filing once they have been signed.

Concluded Cases - Once a case has concluded the Case Manager or case team inform the MM that they can begin the returns process:

The MM audits all the material and produces a mailing list of all individuals that provided material.

1. The individuals are contacted and are given a list detailing their material and requested to inform MM whether they wish to have that material returned or destroyed.
2. Material is returned with a receipt and a reply paid envelope.
3. Material that has been authorised for destruction is set to one side and at the end of the returns exercise the list is passed to the Case Manager for a final decision.

4. All material that has been sourced to the SFO or the police is archived.

Restoring Evidence in Live DocMan cases

Where a case is a DocMan case, the DocMan material to be returned must be booked out of the ERO through the Electronic Movement Book (EMB). The case team have responsibility for this process with the assistance of the MM.

Bags **must** be booked out through the EMB to preserve the continuity and provenance of the bag. If the bag is not booked out correctly it will be shown as present in the MM even if it is with the case team or restored to the owner.

Checklist Procedure for return of material

- Bags must be booked out via the EMB by the case team
- The case team return the contents of the bag to the owner, or their representative.
- The empty bag is returned to MM with a receipt
- The empty bag is booked in and a comment is entered into the EMB stating that the bag has been restored.
- MM store the barcode label from the empty bag with the bag's Electronic Source Form (ESF)
- MM will archive the hard copy ESFs and the image discs.
- SGV need to be authorised to remove DocMan images and electronic versions of the ESFs.

Restoring Evidence in Concluded DocMan cases

When case teams want Docman evidence to be restored, they must provide the following information to Material Management;

- List of bag numbers
- List of names, current delivery addresses for recipient or their legal representative.
- Contact phone number so that delivery can be arranged.

Preparation of the restoration cannot start until this information is provided.

Once this information has been received, Material Management will inform case team of;

- Bags booked out
- Bags already restored
- Bags where the bag number has changed
- DFU bags
- LPP bags

The case team must obtain all necessary authorisations for release of LPP bags, DFU bags or any other bags that need to be authorised for release. Authorisations must be emailed to +Exhibits.

Once a final list of bags has been collated it will be sent to the case team for confirmation that the listed bags can be restored.

When confirmation has been received the bags will be booked out and restored by Material Management.

The evidential material is delivered to the owner by a security cleared courier company.

The courier will not leave evidential material or leave it with a neighbour if the recipient is not at home. They obtain an electronic signature from the recipient and a hard copy of this can be supplied if required.