CHP 26/0023

IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN
CIVIL DIVISION
CHANCERY PROCEDURE

Between

JONATHAN HAYWOOD Claimant

and

(1) **THE COURT OF GENERAL GAOL DELIVERY**
(2) **THE CHIEF CONSTABLE** Defendants

Judgment of His Honour The Deemster Corlett
Delivered on 28 October 2026

Introduction

1. This judgment concerns the consequences of an order made by me on 30 June 2026 whereby, by the agreement of the parties, a warrant issued by the Court of General Gaol Delivery on 17 September 2025 was quashed and it was declared that the warrant was invalid and that the entry into the Claimant's home and the seizure of various items belonging to the Claimant and his family on 19 September 2025 was unlawful.

2. The principal issue for determination in this judgment is whether the Chief Constable should be authorised by the court to retain property seized in exercise of the purported power of entry and seizure. Tynwald has provided a mechanism for addressing the seizure of property effected by way of defective warrants, and this is set out in section 26J of the Police Powers and Procedures Act 1998 [the '1998 Act']. Section 26J is based upon section 59 of the Criminal Justice and Police Act 2001 of Parliament. The Chief Constable made a section 26J application on 21 May 2026. This application was heard by me on 15 and 16 September 2026. Mr Brooks appeared for the Claimant, Mr Haywood, and Ms Costain appeared for the Chief Constable. The Court of General Gaol Delivery was not represented and was of course not expected to take any active role in these proceedings.

3. Further written submissions were filed by the active parties on 1 October 2026.

4. I need to record as part of the procedural background that the Chief Constable made an application to strike out Mr Haywood's doleance claim which had been issued on 25 February 2026 on the grounds of delay. That application was unsurprisingly withdrawn in light of the background facts, this being recorded in an order of 30 June 2026. The Chief Constable also made an application that the proceedings be heard in private. At the hearing

on 15 and 16 September 2026 Ms Costain made it clear that she was not proceeding with that application. I had made it equally clear that I considered that it had no merit. Mr Haywood made no similar application and considered that the proceedings should remain public, that of course being the presumption. There was a case management hearing on 22 July 2026 at which an order was made that the Chief Constable must within 21 days return to Mr Haywood all property previously seized, save for any material which was the subject of, or was required for the proper determination of, the section 26J application. One day was suggested by the parties for the hearing of the section 26J application. This proved to be inadequate and the hearing proceeded into a second day. Because of a submission made by Ms Costain as to the very limited circumstances in which a production order would be sought by the Chief Constable against a proposed defendant, it was necessary for me to receive written submissions on this new point which had not been mentioned in any pre-hearing submissions. This has to some extent delayed the production of this judgment.

5. There is a great deal of material before me in the 622-page bundle, plus numerous authorities. Mr Haywood is aggrieved at the manner in which he and his family have been treated and he has made four witness statements which, with respect to him, do not benefit from the quality of concision. Equally, the skeleton argument produced by Mr Brooks dated 21 August 2026 is 94 paragraphs in length, extends to 20 pages and would have benefitted from editing. Virtually without exception, the case law cited to me consisted of lengthy unreported judgments without the benefit of a headnote. Neither was any authoritative textbook cited to me which might provide some guidance. There is no Manx judgment concerning the issues. I have tended to focus on the oral submissions made by counsel at the hearing on 15 and 16 September where the issues were suitably crystallised. It may therefore be that I have not addressed each and every point made in the written material. I consider, however, that the central issues of importance have been addressed.

Section 26J of the 1998 Act

6. The relevant parts of section 26J of the 1998 Act are set out:

> "***26J Application to Judge***
>
> *(1) This section applies if anything has been seized in exercise, or purported exercise, of a relevant power of seizure.*
>
> *…*
>
> *(6) On any application under this section, the Judge may authorise the retention of any property that -*
>
> *(a) has been seized in exercise, or purported exercise, of a relevant power of seizure; and*
> *(b) would otherwise fall to be returned,*
>
> *if that Judge is satisfied that the retention of the property is justified on grounds falling within subsection (7).*

(7) Those grounds are that (if the property were returned) it would immediately become appropriate -

(a) to issue, on the application of the person who is in possession of the property at the time of the application under this section, a warrant in pursuance of which, or of the exercise of which, it would be lawful to seize the property; or

(b) to make an order under -

(i) paragraph 4 of Schedule 1;
(ii) section 105H or 105I of the Income Tax Act 1970; or
(iii) paragraph 5 of Schedule 5 to the Anti-Terrorism and Crime Act 2003,

under which the property would fall to be delivered up or produced to the person mentioned in paragraph (a) …".

Sections 169 and 170 of POCA 2008

7. It is common ground that the requirements for a search and seizure warrant are set out in sections 169 and 170 of the Proceeds of Crime Act 2008 ['POCA 2008']. Section 169 provides that a Deemster may issue a search and seizure warrant, which is a warrant authorising an appropriate person to enter and search premises and to 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".*

8. Section 169(6) of POCA 2008 provides that:

"The requirements for the issue of a search and seizure warrant are —

(a) that 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

(b) that section 170 is satisfied in relation to the warrant".

9. Section 170 of POCA 2008 provides that:

(1) This section is satisfied in relation to a search and seizure warrant if —

(a) subsection (2) applies; and

(b) either the first or the second set of conditions is complied with.

(2) This subsection applies if there are reasonable grounds for suspecting that —
…

(e) in the case of a money laundering investigation, the person specified in the application for the warrant has committed a money laundering offence or an ancillary money laundering offence.

(3) The first set of conditions is that there are reasonable grounds for believing that —

(a) any material on the premises specified in the application for the warrant is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought;

(b) it is in the public interest for the material to be obtained, having regard to the benefit likely to accrue to the investigation if the material is obtained; and

(c) it would not be appropriate to make a production order for any one or more of the reasons in subsection (4).

(4) The reasons are —

(a) that it is not practicable to communicate with any person against whom the production order could be made;

(b) that it is not practicable to communicate with any person who would be required to comply with an order to grant entry to the premises;

(c) that the investigation might be seriously prejudiced unless an appropriate person is able to secure immediate access to the material …".

The appropriate use of a production order

10. The central question which I must decide is whether it would not be appropriate in the case of Mr Haywood for the court to make a production order as opposed to a search and seizure order. In short, if a production order is considered an appropriate means of proceeding, it follows that a search and seizure warrant should not have been issued in September 2025 and it cannot now be legally permissible for a section 26J(6) order to be made enabling the Chief Constable to retain that part of the property which has not as yet been returned to Mr Haywood.

11. Section 26J of the 1998 Act gives a discretion to the court to authorise the retention of any property seized pursuant to an invalid warrant, provided that the court is satisfied that it would immediately become appropriate to issue a warrant in favour of the Chief Constable whereby it would be lawful to seize the property. It is a pre-condition for the proper issue of a search and seizure warrant that pursuant to section 170(3)(c) of POCA 2008 it would not be appropriate to make a production order for any one or more of the reasons in subsection (4).

12. The first two of these reasons (in subsection (4)(a) and (b)) clearly cannot apply in this case. It would obviously have been practicable to communicate with Mr Haywood, or indeed anyone else in the premises who would be required to comply with an order to grant entry to the premises. The only relevant condition which the Chief Constable could or can rely upon is that in section 170(4)(c), namely that *"the investigation might be seriously prejudiced unless an appropriate person is able to secure immediate access to the material".*

13. Production orders are provided for at section 162 of POCA 2008. As their name suggests, they are orders requiring a person to produce material to an appropriate officer or to give that officer access to the material. The normal period in which such an order must be complied with is seven days, although the Deemster making the order can increase or decrease this period.

Codes of Practice

14. As Mr Brooks correctly pointed out, the statutory provisions are supplemented by Codes of Practice. Of particular relevance is the Proceeds of Crime (Code of Practice: Part 4 Functions) Order 2009 (SD 455/09) made by the Department of Home Affairs and approved by Tynwald on 16 July 2009. The Schedule to the Order contains the Code of Practice for the Attorney General, Police and Customs Officers in the Obtaining and Use of, *inter alia*, production orders and search and seizure warrants. Mr Brooks referenced the following paragraphs of the Code:

> *"9. The use of the orders may involve significant interference with privacy of those on whom personal information is obtained; or whose personal information, material or documents are seen. This places an obligation upon those using the powers to ensure that the application for the order is fully and clearly justified. In particular, appropriate officers should consider at every stage whether the necessary objectives can be achieved by less intrusive means.*
>
> *10. Officers should be aware that the operation of the Act is subject to the provisions of the Human Rights Act 2001 and the European Convention on Human Rights (ECHR) and should consider their use of the orders accordingly. Use of the orders must be proportionate to the outcome being sought, lawful, authorised and necessary (PLAN).*
>
> *11. An advocate from or appointed by the Attorney General's Chambers will have to satisfy a Deemster that any infringement of, for example, a person's right to privacy under Article 8, ECHR is proportionate to the benefit to be gained from making an order. Therefore an officer must be satisfied on these issues, as with the other requirements for the making of orders, and must be prepared to be able to satisfy the advocate in this respect before seeking that an application be made. This becomes a greater consideration in respect of orders made against people who are not themselves under investigation.*
>
> *12. Before a Deemster can grant an order, he or she would have to be satisfied that the relevant statutory requirements are met. For each order the information to*

be obtained is likely to be of substantial value, the granting of the order is in the public interest and that there are reasonable grounds to suspect that –

…

- *in money laundering investigations – a person has committed a money laundering offence …".*

15. In the part of the Code which specifically deals with search and seizure warrants, he referred to paragraphs 84 to 91:

*"**Statutory requirements***

84. A search and seizure warrant may only be issued if one of three statutory requirements are met.

85. The first requirement is met if a production order has not been complied with and there are reasonable grounds for believing that the material specified in the production order is on the premises specified in the search and seizure warrant.

86. The second requirement is met if the material which is sought can be identified, but it is not practicable to communicate with the person against whom a production order might be made or with any person against whom an order to grant entry to premises might be made. This 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. In such circumstances, it is clear that a production order in respect of that person would have no effect. In order for this requirement to be met, the Deemster must also be satisfied that the investigation might be seriously prejudiced unless immediate access to the premises is secured.

*87. The third requirement is met if there are reasonable grounds for believing that there is material on the premises which cannot be identified precisely enough for the purposes of a production order and that the material relates to property or a person specified in the application (officers should have regard to section 170 of the Act for full details). This might be satisfied where it is impossible to describe the material in precise detail, but it is known that suspect material belonging to a person is on the premises. In order for this requirement to be met, the Deemster must also be satisfied that it is not practicable to communicate with anyone who might grant entry to the premises **or** that entry to the premises will not be granted unless a warrant is produced **or** that the investigation might be seriously prejudiced unless immediate access to the premises is secured.*

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

88. The officer must note that a search and seizure warrant is the most invasive of the powers of investigation.

The officer must consider the benefit to the investigation of obtaining the information, and whether this information could be as easily obtained by other means.

89. The officer should consider why he needs a search and seizure warrant rather than a production order with an order to grant entry.

90. The officer must ascertain as specifically as is possible in the circumstances the nature of the material to be specified in the application and its location.

91. The officer must also make reasonable enquiries to establish what, if anything, is known about the likely occupier 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".

16. Several other paragraphs were also cited addressing, for example, the obligation not to retain any original material when a copy would be sufficient.

Orders made against suspects

17. As I have mentioned at paragraph 4 above, towards the end of the hearing on 16 September 2026 Ms Costain advanced the proposition that the Chief Constable has always adopted the practice of applying for search and seizure orders and warrants rather than production orders, where the person to whom the order was directed was the proposed defendant or a person who was suspected of having committed an offence. Production orders were reserved for third parties such as banks and other financial institutions which were unlikely to be the target of criminal proceedings.

18. There is nothing in POCA 2008 which limits the scope of production orders in the manner contended for by Ms Costain. The written submissions filed after the hearing confirm that they are not so limited. The position is correctly and concisely summarised at paragraph 2 of the Chief Constable's supplemental skeleton argument filed by Callin Wild (Mr Callin and Mr O'Connor) who are now acting for the Chief Constable in place of the Attorney General's Chambers:

"The Second Defendant's position is relatively straightforward:

(1) There is no rule of law which prevents a production order being made against a suspect.

(2) But legal availability is not the same as investigative appropriateness: the mere availability of a production order does not require its use in every case.

(3) The controlling question is whether, on the facts known at the time, there were cogent grounds for concluding that no lesser measure was likely to be effective and that notice might seriously prejudice the investigation".

19. The Chief Constable thus no longer maintains the proposition advanced by Ms Costain at the September hearing. The relevant case law will be briefly addressed. In R(S) v Chief Constable of the British Transport Police [2014] 1 All ER 268 at paragraphs [96] to [97] the Divisional Court of the Queen's Bench Division considered that the fact that nothing was known about an individual could not provide a rational basis for concluding that service of a production order might seriously prejudice the investigation. It is clear that the individual concerned was a suspect.

20. In R(Hart) v Crown Court at Blackfriars [2017] EWHC 3091 (Admin) Holroyde LJ stated at paragraphs [56] and [57]:

> *"56. However, I now come to that part of the application which sought to justify the issuing of search warrants, rather than of a less intrusive order such as a production order. As I have indicated above, the more intrusive type of order can only be made if one of the further conditions in Paragraph 14 of Schedule 1 to the Police and Criminal Evidence Act 1984 is satisfied. Here, HMRC asserted that service of notice of an application for an order under paragraph 4 above may seriously prejudice the investigation. In my judgment, that assertion should not have been made to the judge in the manner it was. I will explain why I have reached that conclusion.*
>
> *57. I do not accept the claimants' assertion that on any fair view, they had been fully cooperative with the enquiries made by HMRC: HMRC were in my view entitled to believe that, although many questions had been answered, the answers had been misleading and there had been no true cooperation. I see no reason to doubt Mr Russell's statement that he had not tried other means of obtaining the material because he thought they would be bound to fail. The claimants however are on much stronger ground in contending that there was no sufficient basis for thinking that the investigation may be seriously prejudiced if the claimants were put on notice of an application for a production order. It must be remembered that if a production order were granted and not obeyed, there would be serious sanctions available against the claimants. At its highest, in my view, the conduct of the claimants prior to the application could be said to show a reluctance to be frank and a delay in providing information reasonably required of them. That, however, falls well short of providing a basis to believe that if put on notice of an application for a production order, the claimants might prejudice the investigation by the concealment or destruction of documents or of computer records, or by the improper influencing of others to give, or not to give, particular answers to questions which HMRC might ask them. Those are forms of conduct which would at least potentially amount to a serious criminal offence of doing acts tending and intended to pervert the course of justice in relation to a pending criminal investigation. I think it highly doubtful that HMRC could have been able to justify making such an allegation; but in any event, they certainly could not have done so without putting before the judge a much fuller account than they did of what had been done so far by the claimants to respond to enquiries made of them".*

He continued, at paragraphs [62] and [63]:

"62. It follows that, on a narrow basis which was far from the central thrust of the claimants' case, I find that the issue of these search warrants was unlawful. What, then, is the appropriate relief? Plainly the warrants must be quashed, and the searches carried out pursuant to them must be declared to have been unlawful. That is the only relief for which any application has been pleaded. On behalf of the claimants, Mr Meggy submits that it is open to this court to go further, and to find that the conduct of HMRC was so culpable that they should additionally be ordered to return not only all original material seized during the searches but also any copies made thereof. Mr Bird submits that HMRC should be entitled to retain the material and copies which they presently hold, pending an application pursuant to section 59 of the Criminal Justice and Police Act 2001. The effect of that section is that a prosecuting authority such as HMRC, which has seized property without lawful power to do so, may apply to a judge of the Crown Court for authority to retain that property. By section 59(7), the judge to whom such an application is made may authorise retention if satisfied that, if the property were returned, it would immediately become appropriate -

> *"… to issue, on the application of the person who is in possession of the property at the time of the application under this section, a warrant in pursuance of which, or in the exercise of which, it would be lawful to seize the property."*

63. I reject the claimants' submission, for a number of reasons. First, the only pleaded claim is for quashing of the warrants and declaratory relief. Secondly, the claimants' case is that they are willing to cooperate in HMRC's investigation, and I find it difficult to see how the claimants could have resisted a production order if HMRC had limited their application to that less intrusive form of order. Thirdly, Parliament has in section 59 provided for a prosecuting authority to be given an opportunity, in circumstances such as these, for an application to be made and for a judge to exercise a discretion to permit retention. Fourthly, although an order such as Mr Meggy seeks was made in R (Chatwani and others) v National Crime Agency [2015] EWHC 1283 (Admin), the misconduct in that case was much more serious than I have found here; and at paragraph 139 of his judgment Hickinbottom J (as he then was) set out the relevant principles and indicated that the appropriate relief will be fact-dependent. Fifthly, even taking the claimants' case at its highest I would not have been persuaded that the alleged misconduct was as serious as the claimants contend; and in the event, I have found in the claimants' favour on a much narrower basis. In my judgment, therefore, HMRC are entitled to have an opportunity to make an application to the court pursuant to Section 59 of the Criminal Justice and Police Act 2001".

21. In R(Durojaiye) v Crown Court of Croydon [2022] EWHC 1736 (Admin) the police had applied for a search and seizure warrant on the basis that all or most of the material which they were seeking was likely to be in digital form on computers held at various addresses. At paragraphs [14] and [19] the court observed that the prosecution's case was that if they had served a production order there was a serious risk that relevant digital material would

be deleted before the order was complied with. The court also stated at paragraph [23] that there would be a material non-disclosure to portray the prospective defendant as being obstructive, if in fact he has been genuinely co-operative. In this case however, the target of the order had given limited and spasmodic co-operation.

22. In R(Ahmad) v The Crown Court at Leeds [2026] EWHC 684 (Admin) it was argued by the Claimant that a production order should have been obtained instead of a search and seizure warrant on the basis of co-operation, such that there would not be serious prejudice if a production order were granted. However, the claimant was a suspect and also an admitted fraudster with proceeds of crime held on crypto-assets in unhosted wallets and his claim was dismissed, although there is no suggestion that a production order would have been impermissible were the claimant to have been a man of impeccable character.

23. The position in Ahmad is set out by O'Farrell J at paragraphs [56] and [57]:

> *"56. The Claimant's position is that, even if there was evidence giving rise to reasonable grounds for suspecting money laundering, his voluntary engagement with HMRC regarding liability for CGT in respect of his Bitcoin gains, indicated that a production order would be sufficient in this case.*
>
> *57. In this case, for the reasons set out in the application form, the material sought under section 352 of POCA could not be obtained under a production order without severely prejudicing the investigation. On the basis of the information available, there were reasonable grounds to suspect the Claimant had committed money laundering. That information indicated that any proceeds of criminal activity were held in cryptoassets. Cryptoassets, particularly those held in unhosted wallets, can be easily and swiftly moved beyond the reach of regulators or law enforcement. Against the Claimant's history of committing fraud and absconding from justice for some years, I accept the IP's submission that it is wholly unrealistic for the Claimant to suggest that a production order would have been an adequate investigative measure, without the risk of prejudicing the investigation and the integrity of the evidence sought".*

24. I accept that Mr Haywood is of an entirely different character to some of the unsuccessful claimants who feature in the reported cases. It appears uncontested that Mr Haywood is a teacher at two Isle of Man secondary schools. He is married with a young daughter and is a permanent long-standing resident. He has a *"side business"* as a games developer and he operates a VASP (virtual asset service provider) which has approximately 100 customers. This business trades under the name *"Zed Zeroth"*. There is evidence before me that he is regulated by the Financial Services Authority ['FSA'] and that he has satisfied their regulatory requirements imposed following a routine regulatory visit to his home. There is also evidence that he has co-operated with the Isle of Man police in two respects. Firstly, by making SARs (Suspicious Activity Reports) from time to time in respect of persons who he thought might warrant some investigation. Secondly, he himself wanted to improve his anti-money laundering protections and in 2025 endeavoured to make contact with the relevant unit in the police, albeit without much success. Mr Haywood is a man of good character with no relevant (or perhaps any) previous convictions.

Conclusion on the statutory criteria

25. While I accept that a search and seizure order may well be more appropriate than a production order in those cases dealing with cryptocurrency and indeed digital, computer-based material generally (although it is important to note that it is generally accepted that blockchain transactions have a considerable degree of permanence and cannot be deleted or altered), I cannot accept that merely by stating that the proposed defendant deals in digital assets suffices to satisfy the statutory requirements. More is surely required and, on the basis of the case law and evidence now before me, I find it impossible to hold that it was not appropriate for Mr Haywood to have been served with a production order as opposed to a search and seizure order. As was pointed out in the Hart case cited above, a failure to comply with such an order, whether by destroying or deleting data, or simply not complying with the obligation to produce material, would of course constitute a serious offence and would place Mr Haywood's career and livelihood in a very perilous position. This court is entitled to presume that established residents of this country will comply with legitimate requirements made of them by the police and regulatory bodies. It is for those bodies to produce evidence that compliance is likely to be problematic. Similarly, a resident of this country is entitled to protection from the exercise of governmental power which is not fully compliant with the governing statute.

26. Having established that the statutory criteria for the issue of a search and seizure warrant could not have been satisfied, the question naturally arises as to how the Court of General Gaol Delivery was persuaded to make a search and seizure order and did not make a less obtrusive order, namely a production order.

The proceedings before the Court of General Gaol Delivery

27. The picture painted to Deemster Cook was set out in three separate documents. First there was the affidavit of PC Neil Edwards, sworn on 16 September 2025. This is 39 paragraphs in length. There is then an application of the same PC Edwards, also dated 16 September 2025, which is 22 paragraphs in length. There is then an undated skeleton argument signed by Mr Robinson of the Attorney General's Chambers who appeared at the hearing before Deemster Cook. This is very brief indeed. It is barely one page in length and extends to eight paragraphs. I also have a transcript of the hearing before Deemster Cook. The hearing lasted seven minutes and 24 seconds.

28. PC Edwards' affidavit refers to an investigation into Mr Haywood and his *"company"*, Zed Zeroth. This is the first error. Zed Zeroth was a business or trading name used by Mr Haywood. He was not a *"director"* of a company, as alleged by PC Edwards. Zed Zeroth was not a corporate entity.

29. Mr Haywood was said to be the subject of a money laundering investigation under the operation name *"Jutland"*. This concerned an investigation into Isle of Man IP (Internet Protocol) addresses which were said to be used to *"facilitate Bitcoin transactions associated with darknet markets and fraud shops"*. Specific reference is made to approximately US$100,000 worth of Bitcoin having been traced to a specific darknet website *"seed-city.com"* which PC Edwards believed to be a UK-based platform involved in the global sale

and distribution of cannabis seeds. Inquiries had established that all the suspicious IP addresses which had been sampled belonged to Mr Haywood.

30. PC Edwards referred to an inspection report completed by the FSA in mid-2023 which found that the Zed Zeroth platform was severely lacking in anti-money laundering, enhanced due diligence and Know Your Customer compliance tools. Such deficiencies will likely have allowed *"malicious actors"* to exploit the platform. Of particular significance is the statement that *"despite a myriad of significant failings having been identified in the 2023 FSA report"*, no meaningful steps had been taken by Mr Haywood to deal with them.

31. PC Edwards also asserted that *"multiple individuals with associations to drug related criminal activity"* had engaged in the sending and receiving of cryptocurrency assets via the Zed Zeroth platform. A failure to implement adequate cryptocurrency scanning tools allowed the illicit transactions to be made.

32. PC Edwards goes on to refer to the significant financial benefit which he considered Mr Haywood will have earned for each transaction processed and also the contact which he had made with a civilian officer (Mr Binns) working within the Economic Crime Unit ['ECU']. By this point, Mr Haywood was said to have had comprehensive contact with the FSA and *"had apparently employed the services of a third party to assist him with regulation compliance"*.

33. Importantly, PC Edwards states that a production order would not be appropriate for the reasons set out at paragraphs 31 and 34 of his affidavit:

> *"31. Consideration has been given in this matter as to whether the material sought could be obtained by way of a criminal production order presented to "ZED", but the view taken is that this would be almost certain to fail and would present an unacceptable risk of both tipping off and the potential destruction of evidence. I believe that the requirements of s.170)(4)* [sic]*of the Act are made out in this case on the basis for this reason it is impractical to communicate with him and the investigation may be seriously prejudiced unless immediate access to the material is obtained.*
>
> *…*
>
> *34. I do not consider in this case that it would be appropriate to apply for a production order under s.162 of the Act. My reason for this view is that it is not practicable to communicate with the person against whom the order would be made (in this case HAYWOOD himself) and that that* [sic] *the investigation might be seriously prejudiced unless an appropriate person is able to secure immediate access to the material. Any production order would be served on the director(s) of "ZED", who is HAYWOOD, who is the suspect to be arrested. This would then place compliance in the hands of the suspect and present a significant risk of the destruction of evidence. Further to this, service of such an order for a criminal investigation would essentially amount to a tip off".*

34. He concludes his affidavit by asserting that approximately US$100,000 has been transferred to the *"dark web website, seed-city.com"* and in addition a further US$1,247,220 had been traced through various Bitcoin clusters, however it was not possible to determine what

proportion of these assets may be linked to criminal activity versus legitimate transactions. Thus, to allow the investigation to progress, a comprehensive review of all *"company related information"* was required.

35. The application for a search and seizure warrant is signed by Mr Robinson of the Attorney General's Chambers. Much of it consists of a summary of PC Edwards' affidavit. In the section headed *"Overview of the investigation"* he states:

> *"6. HAYWOOD, through his trading company ZED ZEROTH, is currently subject to an Economic Crime Unit ("ECU") investigation for suspected money laundering. The essence of the suspicion is that clients of ZED ZEROTH have been engaging HAYWOOD* [sic] *services to move cryptocurrency through ZED ZEROTH which derives from the dark web and suspected to be the proceeds of illicit activities including drug trafficking and money laundering. HAYWOOD would then take a percentage for the transaction as his fee".*

36. Reference is again made to the FSA regulatory inspection in 2023 and that this highlighted that *"Zed Zeroth has serious shortcomings in its KYC and CDD procedures and therefore such matters would have been known to HAYWOOD"*.

37. Reference is also made to Mr Haywood's contact in early 2025 with ECU and his request that they provide advice on how he could screen the customers of Zed Zeroth. At paragraph 9 it is submitted that this, *"on one interpretation, could indicate that HAYWOOD was concerned about his customers laundering money but had continued to operate post the FSA report and still not taken any steps to identify where the funds were coming from".*

38. At paragraphs 11 to 14 of the application there is a section setting out the submissions which Mr Haywood would have made if the application were not being dealt with *ex parte* (i.e. without notice to him). It is of note that reliance is placed once again on the *"clear findings of the FSA of the risks to his business"*. In addition, the issue of contact with the ECU is said to *"suggest a level of suspicion otherwise why would he be seeking guidance from law enforcement on how to screen his customers?"*. Similar submissions are repeated at paragraph 15 of the application.

39. As to the alternative remedy of a production order, this is dealt with at paragraphs 18 to 20:

> *"18. It is acknowledged in this case that a Production Order under s.162 of the Act would be possible int his* [sic] *case, but for the following reasons it is submitted that s.162 (6)(a) and s.170 of the Act are met in this case and it would not be appropriate to seek the information via such an Order.*
>
> *19. As the Applicant has set out in his Affidavit, the subject of any Production Order would be HAYWOOD himself, there being no suggestion that ZED ZEROTH has any other director to whom the Order could be directed. Therefore, any attempt to proceed down this route would inevitably amount to "tipping off" HAYWOOD by giving him notice of the investigation and allowing him to potentially destroy or conceal evidence given he would be given a minimum of 7 days to comply*

with any Order per the provisions of the Act. It is submitted given the serious nature of this matter, to place compliance in the hands of the only suspect would create a significantly dangerous position and seriously prejudice the investigation.

20. On this basis it is submitted that it is not practicable to communicate with HAYWOOD on a Production Order and there is serious risk of prejudice to the investigation".

40. The very brief skeleton argument cites the care needed to ensure that the requirements of POCA 2008 are satisfied and the need to ensure that the warrant is drafted with appropriate precision and the need to scrutinise such application carefully before making any orders, bearing in mind the intrusive nature of a search and seizure warrant and order.

41. Regrettably the drafting of the search and seizure warrant fell below these standards. The most glaring errors are the reference to section 162 of POCA 2008 below the words *"Search and Seizure Warrant"*. Section 162 deals with production orders. The reference in the body of the order to *"the issue of a search and seizure warrant under section 162(1) POCA 2008"* is self-evidently wrong for the same reason. The warrant on its face enables entry into the home address of Mr Haywood but does not empower the seizure of anything found therein.

42. Of somewhat lesser importance is the reference in the body of the warrant to the non-existent company *"Zed Zeroth Limited"*.

43. The warrant is drawn in very broad terms. There is no attempt to limit it in temporal terms. A particularly egregious example is paragraph vii which concerns *"Any financial records for Zed Zeroth Ltd or Jonathan Peter Haywood".* In R(Brook) v Preston Crown Court [2018] EWHC 2024 (Admin) the court was critical of a warrant which was drafted in unspecific terms. In that case the warrant was quashed and the High Court refused permission for documents or other materials seized to be retained for the purpose of a section 59 application.

44. It is therefore entirely correct that the Chief Constable consented to the warrant being quashed. It was plainly significantly defective on its face.

45. None of these failings were pointed out to Deemster Cook by Mr Robinson when he appeared at the without notice hearing on 17 September 2025. There was no discussion of the availability of a production order, neither was there any reference to the European Convention on Human Rights and in particular Article 8. Deemster Cook was plainly influenced by the FSA inspection issue in 2023 and the fact that Mr Haywood had sought advice from the police in 2025 (see page 2 of the transcript, lines 20 – 23).

46. It is also of note that Mr Robinson stated at page 2, lines 29 – 32 that:

> *"Relevant in as far as I'm sure if he were here the, the Respondent would be saying I imagine that his systems and controls of his company are clearly deficient. I think that's highly likely made out based on the FSA reports".*

47. Deemster Cook also appears to have been persuaded that Mr Haywood's communication with ECU suggested that matters were not as they should be, as opposed to, as Mr Robinson put it, *"an individual trying to bring his company into compliance and to seek assistance"* (see page 3, lines 2 – 13).

48. As to the involvement in moving tainted funds, Mr Robinson submitted that US$100,000 had been identified as the proceeds of money laundering, but a further US$1.2 million could not be characterised in the same way without *"information on all of the business of Zed Zeroth"* (see page 3, line 34 to page 4, line 10).

49. I consider that Deemster Cook was not properly informed about the FSA inspection or Mr Haywood's contact with the ECU.

50. The documents to which I was referred paint an entirely different picture to that placed before Deemster Cook. At pages 213 and 214 of the bundle there is an email timed at 14:00 on 29 May 2024 from officers of the FSA. This records that Mr Haywood had employed Impact Professional Services Ltd to advise him on regulatory matters. It refers to Mr Haywood's *"continued cooperation to assist Impact"*, that *"all remedial actions have now been completed"* and that deficiencies previously identified *"are now considered compliant"*. Towards the end of that email it was confirmed that no further enforcement action would be taken, *"given the costs imposed so far and remediation undertaken to date"*. The reference to *"costs imposed"* is likely to be the considerable expenditure incurred by Mr Haywood with Impact Professional Services Ltd, a Douglas-based compliance advisory company whose invoices and engagement documents and reports appear at pages 203 to 212 and 215 to 223 of the bundle. In that section of the bundle there appear various procedures and other regulatory-related documents produced by Mr Haywood.

51. I therefore find it difficult to accept that there was and is evidence revealing a culture of non-compliance on the part of Mr Haywood. To the contrary, he was in September 2025, and remains to this day, a regulated business with a satisfactory record of compliance since 2024. Based on the material produced to me, and which the Chief Constable will have been privy to at the time of the application to Deemster Cook on 17 September 2025, it is particularly surprising that Mr Robinson should have asserted at the hearing before Deemster Cook that Mr Haywood, had he been present, would have readily conceded that his systems and controls were *"clearly deficient"*.

52. I also find that the portrayal of Mr Haywood's contact with the ECU as indicating a degree of suspicion to be wholly unmerited. At the hearing I was taken through the relevant emails by Mr Brooks. I will not quote them in full. They start with a general enquiry from Mr Haywood sent to the police on 14 May 2025 in which he states that he has a query regarding *"crime-linked crypto wallets"* and he asks whether there is someone in the constabulary with expertise in this area who might be able to help. On 28 May 2025 he received a response from Civilian Investigator Binns who asked Mr Haywood to provide more detailed information. Mr Haywood responded the same day requesting where he could obtain lists of CVC addresses known to have been directly involved in criminal activity, specifically those which are not linked to serious international crime but might be linked to UK/IOM i.e. *"domestic crimes"*.

53. Having received no substantive response, Mr Haywood in an email of 8 July 2025 expressed his mild frustration at not having received the assistance he was seeking.

54. In short, I find it impossible to construe this enquiry made by Mr Haywood as in any way suspicious. Neither the FSA inspection material nor the police enquiry material provide any basis for concluding that Mr Haywood was, or is likely to be, uncooperative and, specifically, is an individual who is likely to frustrate a production order by, for example, deleting data. I am satisfied that had Deemster Cook been referred to the detailed history of this matter, he would readily have concluded that a search and seizure order was inappropriate and that at the very most a production order was the correct method of proceeding. Applying the legal test set out for example at paragraph [19] in the Hart case cited above and also at paragraph [36] of the case of Hughes [2021] NIQB 2021, I am satisfied that had the correct information been given to Deemster Cook, it might reasonably have led him to refuse to issue the warrant.

55. Of course, the court would still have been required to be satisfied that Mr Haywood had committed a money laundering offence or an ancillary money laundering offence (see section 163(2)(e) of POCA 2008). The evidence before Deemster Cook and before me is less than overwhelming. The sum of US$100,000 is said to be linked to a dark web site which deals with the sale of cannabis seeds. As Mr Brooks pointed out, cannabis seeds are not prohibited items. Thus, reliance on Mr Haywood's involvement with seed-city.com is most unlikely to provide evidence of criminality. The balance of the monies, being a seven-figure sum, is said to be the proceeds of crime, based upon speculation rather than any firm evidence. To that extent, I agree with Mr Brooks that this exercise appears to be in the nature of a *"fishing expedition"* and the warrant was drafted in a very wide and unfocussed way so as to capture personal family belongings which had no connection with Mr Haywood's VASP business.

56. As O'Farrell J reminds us at paragraphs [15] and [16] in the Ahmad judgment cited above, when considering whether to grant a warrant, the judge must be satisfied that there are reasonable grounds for the necessary suspicion. The threshold is not high; it is not necessary for the judge to be satisfied that a criminal offence has been committed. The duty of the applicant for such a warrant is to make a full and fair disclosure of all the material facts, based on proper inquiries.

57. Section 26J(7) also imports a requirement of immediacy in that the court must be satisfied that it would now be appropriate *"immediately"* to issue a warrant providing authority for the seizure of the property. I have detected no element of urgency or immediacy in this investigation. Much of the seized material has yet to be accessed and reviewed and neither Mr Haywood nor anyone else has been charged in connection with *"Operation Jutland"*.

58. In R(HM Revenue and Customs) v Crown Court at Maidstone [2018] EWHC 2219 (Admin) at paragraph [10], citing HMRC v Cheema, it is said that an application under the English equivalent of section 26J of POCA 2008 involves a *"notional application for a warrant"*. Similar wording appears at paragraph [52] of R(GSX) v Southwark Crown Court [2026] EWHC 538 (Admin).

59. I conclude that, in considering the notional application for a search and seizure warrant as if it were made today, the relevant statutory criteria supported by the requirements of the relevant Code of Practice are not satisfied. I must therefore conclude that those items which remain in the possession of the Chief Constable must be returned forthwith to Mr Haywood and that any copies of data already extracted should be destroyed or permanently deleted.

Procedural failings by the Chief Constable

60. I need to add that at 18:46 on 14 September 2026, i.e. well after close of business the day before the hearing set to begin on 15 September 2026, the Attorney General's Chambers sent to the court an application to rely at the hearing on the witness statement of DI Giddins dated 14 September 2026. The case management order of 22 July 2026 had made no provision for the filing of additional very late witness statements. Mr Brooks asked me to disallow this late application, and I was obliged to take time reserved for the substantive hearing to hear counsel on the issue of admitting the statement. Ms Costain submitted at paragraph 6 of the application notice that the evidence in the statement was required in order to *"assist the court in determining the issue before it on the most complete and up-to-date evidential basis available".* She submitted that *"any prejudice to the Claimant can be adequately addressed by a short adjournment to permit consideration of the evidence"*.

61. An adjournment of the hearing was out of the question in light of the fact that it had been set down for some time and the issues required to be dealt with expeditiously. My decision was to admit the statement on a *de bene esse* basis. In other words the statement was, on a pragmatic basis, admitted, but on a provisional basis.

62. Having now examined DI Giddins' statement of 14 September 2026 and considered Mr Brooks' submissions thereon, I have come to the view that it is of little, if any, evidential value to the issues which I have to decide. It is an eleven-page statement and therefore contains a considerable number of words. There is however nothing in it which materially assists me. Around four pages are taken up with listing the property belonging to Mr Haywood and his family, most of which appear to have been *"returned to owner"*, although digital images have been retained by the police *"pending evidential review"*. Those items which require such a review are suspected to contain evidence of the offences under investigation. There now appear to be few physical assets which have not been returned to the owner, and it is said that they have the *"potential to represent the proceeds of crime"* and are *"suspected to contain evidence of offences under investigation"*.

63. The remainder of the statement adds nothing of substance to the evidence which was before Deemster Cook. As DI Giddins states at paragraph 9, *"The intelligence remains materially unchanged"*.

64. It is now said (paragraph 24) that *"the relevance of Seed City was limited"*. Reliance however continues to be placed on the issues arising from the FSA's allegedly unsatisfactory dealings with Mr Haywood (see paragraphs 6(e) and 25 – 27). An additional matter raised at paragraph 6(b) of the statement is that *"under FSA policy, a VASP is required to have at least two directors"*. That policy is, most unhelpfully, not produced. The statement continues to refer to Mr Haywood being a *"director of ZED"*, which is plainly wrong.

65. DI Giddins states that further interrogation of the results obtained has not been possible due to the order of 22 July 2026 requiring the cessation of device examination. That may be correct, but it does not answer the question as to why examination did not occur in the period between September 2025, when the seizures occurred, and July 2026. The lack of any real urgency is again evident.

66. In respect of delay, it is said by DI Giddins that this has been contributed to by the large volume of material seized. The riposte to this is that the police ought to have been more discriminating and targeted in their application, thus reducing the volume of material now apparently requiring examination. It is also claimed that Mr Haywood's formal complaint to the Chief Constable using the established complaints process has delayed the Constabulary's ability to examine the devices and pursue their enquiries. This is a claim which, it seems to me, lacked any substance. Mr Haywood was entitled to complain, and it is certainly arguable that if his complaints had been squarely addressed, many of the issues in this litigation may have been dealt with without troubling this court.

67. The overall view which I take of this very late witness statement is that it was unfair to seek to have it admitted. In this instance it put the court, and Mr Haywood in particular, in an impossible position. Mr Haywood did not have the opportunity to put in a statement in response. He did not want the hearing to be adjourned for this purpose. The statement was clearly designed to influence my decision, but in any event, for the reasons outlined above, I consider that it is of no real assistance to this court.

Discretion

68. If the statutory criteria set out in section 26J had been satisfied, the court would retain a discretion as to whether to make such an order. In R(Chatwani) v National Crime Agency [2015] EWHC 1283 (Admin) the Divisional Court held that *"In the extraordinary circumstances of this case"* (see paragraph [144]) the National Crime Agency's conduct, whilst falling short of bad faith, had been such that it should not be allowed any actual or potential benefit from the unlawful search and seizure that directly flowed from such conduct. Hickinbottom J set out at paragraph [139] the issues which are relevant to consideration of the appropriate relief flowing from a finding that a warrant has been issued unlawfully:

> *"Unsurprisingly, these cases illustrate that, in terms of appropriate relief, each case will be fact-dependent. However, on the basis of the authorities, the following propositions can be made:*
>
> *i) In the normal course, where material has been obtained as a result of an unlawful search and the agency seizing it wishes to retain it, the appropriate procedure is for the agency to make an application to the Crown Court under section 59. For the purposes of that application, the agency will have the benefit of considering the seized documents, and making submissions with that benefit.*
>
> *ii) On a section 59 application, the court will be astute to examine the circumstances surrounding the illegal seizure. Any suggestion of bad faith, or even that the*

agency has adopted a less than rigorous and scrupulous approach to drawing up and executing the initial warrant, will weigh heavily against the exercise of the court's discretion in favour of authorising retention (R (El-Kurd) v Winchester Crown Court [2011] EWHC 1853 (Admin) at [65] per Stadlen J). The circumstances may have been such that it will be open to the Crown Court to refuse the application as a whole.

iii) The Administrative Court will exercise restraint in ordering the return of such documents. Parliament has assigned responsibility for determining issues of retention to the Crown Court; and the Crown Court will have the advantage of being able to consider the documents seized, which this court will not.

iv) However, there may be circumstances in which it is appropriate to deny the agency of all benefit of the illegal search, irrespective of the nature and content of the documents seized. Those circumstances are likely to focus on the agency's own conduct. If it has acted in bad faith, that is likely to be a compelling reason for not allowing it to retain any benefit from the exercise. However, bad faith is not a prerequisite: the agency's conduct in obtaining and/or executing the warrant (or their subsequent conduct, as in Kouyoumjian) may drive this court to give the subjects of the warrants relief to deny the agency of all benefit of the unlawful search. I stress that the circumstances in which the court is likely to make such a finding will be rare".

69. It should be emphasised that in England and Wales an application authorising the retention of material seized on the basis of an unlawful warrant is made to the Crown Court, although the High Court can order that such application may not be made if, for example, the section 59 application is bound to fail. In the Isle of Man such an application is made to this court and not to the Court of General Gaol Delivery.

70. Chatwani was a case where the application for search and seizure warrants was made predominantly for a collateral purpose, namely planting surveillance devices in premises. This is referenced at paragraphs [24] and [25] of Chatwani under the heading *"The Plan".* The court set out trenchant criticism of the NCA's conduct, but did not in the end find bad faith.

71. In the case before me, and applying the Chatwani test set out by Hickinbottom J at paragraph [139], I find that the Chief Constable has adopted a less than rigorous and scrupulous approach to the making and presentation of the application which came before Deemster Cook on 17 September 2025. As in the GSX case cited above, the shortcomings of the Chief Constable are serious, but they do fall short of the *"egregious disregard"* for statutory safeguards described in Chatwani. The police did not act in bad faith, but their failings represent a lack of rigour rather than any deliberate misconduct. I adopt in this regard the wording of Yip LJ and Griffiths J in GSX at paragraph [96]. I consider that this finding weighs heavily against the exercise of this court's discretion, although in this particular case I do not consider, for the reasons set out above, that the question of discretion even arises.

72. Counsel should agree the terms of an order to give effect to this judgment. I will hear counsel on the issue of costs.

Procedural addendum

73. Following the filing of supplemental skeleton arguments the court wrote to both parties' advocates on 16 October 2026 indicating that, in light of the very recent change in representation on the part of the Chief Constable, there might be an opportunity for either counsel to make any further oral submissions to the court before the judgment writing process began.

74. Mr Callin, who is now on the record for the Chief Constable, indicated that he would welcome the opportunity to make further oral submissions. However, Mr Brooks on behalf of Mr Haywood, in well-made submissions by email on 16 October 2026, submitted that no further oral submissions should be permitted. For the record, I set these out:

> *"… Whilst we are grateful to the court for considering whether we wish to make additional oral submissions, we can confirm that we do not feel that it is necessary or appropriate for additional submissions to be made - unless there is anything in particular that the court requires specific assistance with.*
>
> *We respectfully characterise the situation as follows:*
>
> - *At or shortly before the end of the hearing of this matter on 16 September, the Second Defendant's then counsel asserted that a Production Order was not available against a suspect. She had no authority for the proposition and that argument was not raised either in pleadings or skeleton. Nonetheless, the court understandably wanted to be clear on this fundamental point and therefore invited counsel to make supplemental submissions on it.*
>
> - *It is clear from both of the supplemental submissions filed, the answer to the question framed by the court is 'yes, it is conceptually possible to make a Production Order against a suspect'. We note also that the Second Defendant's Supplemental Skeleton was filed by Mr Callin and not Ms Costain, and so there should be nothing new to be said regarding that simply by dint of the change of advocate.*
>
> - *The question of whether it would have been appropriate to issue a Production Order (had that been applied for - rather than a search and seizure warrant) has already been the subject of oral submissions. It cannot be the case that the mere change of advocates at this late stage can entitle a party to have a "second bite of the cherry" at matters already the subject of submissions previously.*
>
> *On* [sic] *other difficulty is that whilst I am available next week, I am not available at the beginning of November as I am overseas for the entire duration of the week suggested. It therefore appears that my availability is a mirror image of Mr Callin's*

and that would therefore appear to mean that we are not going to be able to schedule any oral hearing until December at the earliest.

We also wish to underline the fact that the length of time the proceedings take, delay, and the amount of work that needs to be done to see them to a conclusion are all factors to be taken into account when making case management decisions as to whether further submissions can be made or not. In particular, we are reminded of the overriding objective (Rule 1.2) which requires the court to deal with cases justly, which means inter alia, so far as is practicable, ensuring that the parties are on an equal footing, in a manner that saves expense and deals with the case in ways which are proportionate to the financial position of each party. It is also important to ensure that the case is dealt with expeditiously.

These proceedings have been lengthened - and made more expensive - by the Second Defendant making two Applications that were later withdrawn (Strike Out and Privacy – the latter involving two rounds of paper submissions), and in raising the 'Production Order against Suspect['] point at the very last minute – which then led to the Supplemental Skeletons being ordered. Further expense and opportunity for potential delay arose from the Application for late evidence to be admitted (the second Giddins witness statement the day before the hearing) where an adjournment was offered. The Claimant also notes the supplemental submissions only came about because the Second Defendant did not raise the point at the appropriate time in the first place. A further three months are likely to have been lost since the September hearing if oral submissions are listed for December. As noted in oral submissions at the hearing, the Second Defendant has limitless resources; the Claimant does not.

Progression of the case to conclusion is very important to the Claimant because it will be self evident that the continuation of these proceedings brings with it very serious psychological and financial burdens. He is not a corporate on anything approaching an equal footing with the police in terms of resources but an individual - a family man and teacher who additionally ran a small business. We refer to the devastating effects that this situation have had on the Claimant and his family (as per the evidence filed on behalf of the Claimant) and note that a swift resolution is desired to enable the Claimant to be able to rebuild his life. It is of paramount importance that proceedings like this, which seek to hold the police to account, are not only theoretically possible but also practically possible in terms of expense, and that the parties are placed on an equal footing so far as is possible (which is very difficult when one of the parties is publicly funded). We respectfully ask the Court to take this into account in case management.

For all the above reasons, it is respectfully submitted that, in accordance with the Overriding Objective, the Court should determine that no further oral submissions are necessary or appropriate in this matter because dealing with the case justly requires the Court to proceed to issue judgement without an opportunity being afforded to Mr Callin to make further oral submissions.

As noted above, if the Court does require assistance with specific points then that is of course different and we would be very pleased to assist.

However, we respectfully submit that it is not appropriate for Mr Callin to now be able to make new closing submissions on behalf of the Second Defendant regarding the matter generally (simply because he has replaced Ms Costain) and that there is no need for oral submissions regarding the answer to the question framed by the Court and dealt with in the Supplemental Skeletons - because the answer is clearly 'yes' and thus common ground.

We therefore respectfully submit that no further oral submissions should be permitted at this time.

We hope the above is helpful and look forward to hearing from you …".

75. I agree with Mr Brooks for the reasons he advances in that email. I have been able to come to conclusions in this matter without any further oral submissions. I do not consider that it is consistent with the overriding objective to permit yet further delay and the incurring of further costs in this litigation and deliver judgment now accordingly.

His Honour The Deemster Corlett