

Neutral Citation Number: [2026] EWHC 2904 (Admin)

Case No: AC-2025-LON-002244

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 10/11/2026

Before :

MRS JUSTICE FOSTER DBE

- -

Between :

SARAH ODEH	**Applicant**
- and -	
CITY OF LONDON POLICE	**Respondent**

- -
- -

Kathryn Arnot Drummond, (instructed by **Rahman Ravelli Solicitors**) for the **Applicant**
Gary Pons (instructed by **City of London**) for the **Respondent**

Hearing dates: 2nd July 2026

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JUDGMENT

This judgment was handed down remotely at 2pm on 10th November 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE FOSTER DBE

Mrs Justice Foster DBE:

The Issue

1. The issue in this case is whether or not the Crown Court has power to release monies the subject of a Magistrates' Court order for Forfeiture to fund the legal expenses of an appeal to the Crown Court from the Magistrate's Court in respect of that Order.

2. The matter comes before this Court as an appeal by way of case stated from HHJ Tomlinson sitting in the Crown Court. It arose in the context of Chapter 3B of Part 5 of the Proceeds of Crime Act 2002 ("POCA") which provides for a scheme of freezing and forfeiture of monies held by financial institutions.

What happened in this case

3. On 11 February 2022, the Second Respondent the City of London Police (referred to here as "COLP") sought and obtained an Account Freezing Order (an "AFO") from the Westminster Magistrates' Court ("WMC") under section 303Z14(2) of POCA in respect of funds in the amount of £348,000 held in an Everyday Savers account at Barclays Bank in the name of the appellant Ms. Odeh. Subsequently COLP applied for an order for forfeiture under section 303Z14(2) of POCA.

4. COLP were successful in their application for forfeiture. Ms Odeh appealed. In the course of that appeal she applied for an order from the Crown Court that part of the monies which the Magistrates' Court had ordered to be forfeited should be released to fund her legal expenses in the appeal. COLP did not consent, and on 21 March 2025 HHJ Tomlinson sitting at Southwark Crown Court refused her application on the basis that there was no power in the Crown Court to release monies to fund the legal expenses of an appeal, which had been ordered by the Magistrates Court to be forfeit.

5. The timetable of the case had been as follows

   (i) 11 February 2022 COLP obtained an AFO in respect of an account in the name of the appellant with a credit balance of £348,000.

   (ii) 19 January 2024 COLP applied for an Account Forfeiture Order in respect of the full credit balance of £348,000

   (iii) April 2024 materials served by COLP on the appellant; CMH fixed for 5 July 2024

   (iv) 5 July 2024 at the CMH the hearing was set down for three days 11th of November 2024; an application was also fixed 1/14 November in respect of a different account in the name of a different person

   (v) 28 October 2024 COLP served a skeleton argument (appellant's skeleton argument due 4 November 2024)

   (vi) 5 November 2024 matter listed at Appellant's request for application to adjourn – Appellant's witness was unable to attend due to visa issues and she stated she needed time to secure funding as she could no longer fund her own representation. The Appellant indicated she wished for a variation of the freezing order under section 303Z

5(5) POCA to allow for funding. COLP opposed the adjournment. DJ Snow refused to adjourn on the basis the issues had been live for several weeks and the application was made too late.

(vii) 11 November 2024 – hearing before DJ Turnock of COLP's application for a Forfeiture Order. The Appellant was unrepresented.

(viii) 13 November 24 WMC made a Forfeiture Order under s.303Z14 POCA against the full credit balance of £348,000. No order as to costs.

(ix) 21 November 2024 Appellant lodged an appeal. (Date for hearing fixed as 13 February 2025).

(x) 12 February 2025 application by Appellant to Crown Court for an order releasing money in respect of legal expenses relying upon s.303Z16(3) POCA to the effect that the Crown Court hearing the appeal could "*make any order it thinks appropriate*". Crown Court made directions for a hearing of the issue on 20 March 2025 and set down full appeal for 2 June 2025

(xi) 20 March 2025 HHJ Tomlinson at the Crown Court at Southwark refused the Appellant's application under s.303Z16(3) POCA (judgment 21 March 2025). The judge indicated he was unpersuaded the Crown Court had the power, but had he had such power he would have exercised it.

6. The basis of the original application by COLP in the WMC for the account freezing order was, consistently with statute, that there were reasonable grounds for suspecting that the sum of £348,000.00 which had been received into the Appellant's bank account was obtained by money laundering, the details of which were given in a sworn statement made on behalf of the applicants for the order.

7. The evidence stated that COLP believed the money was either "*recoverable property*" or was "*intended by any person for use in unlawful conduct*" pursuant to POCA. The application sought certain of the funds within the account, not the entire balance. The order was granted by WMC for a period of six months.

8. Ms Odeh's case in a nutshell is that the Crown Court has jurisdiction to allow a variation of the freezing order made in respect of her funds so as to allow payment for legal representation. She relies on the simple language of statutory provision in s.393Z16(3) POCA and says to read the statute in any other way, that is to say, confining the jurisdiction to release funds to the Magistrates' Court, would be an illegitimate incursion into her rights arising under Article 6 ECHR.

The Questions

9. HHJ Tomlinson set out the questions for determination by the High Court on this appeal by way of case stated as follows

    (i) Does section 303Z16(3) of the Proceeds of Crime Act 2002 ("POCA") confer the power on the Crown Court, hearing an appeal against the making of a Forfeiture Order under s.303Z14 POCA, to release monies in the nominated account so as to enable an applicant to meet her reasonable legal expenses in the appeal? ("the Crown Court's Powers")

(ii) If s303Z16(3) POCA does confer such a power, should the Crown Court take guidance from s.303Z4 and s.303Z5 as to the proper approach when considering desirability and quantum to fund legal representation? ("The Exercise of the Power").

10. I have answered a question (i) "no". Question (ii) therefore does not arise.

Statutory Framework

11. I am grateful to both Counsel for the structure of the relevant legislative framework which I have adapted from their skeleton arguments and about which there was no dispute.

12. The statutory purpose of part 5 of POCA (including Chapter 3B) as set out by section 240 (1) is for:

> "*enabling property which is, or represents, property obtained through unlawful conduct, or which is intended to be used in unlawful conduct, to be forfeited in civil proceedings before a magistrates' court or (in Scotland) the sheriff .....*"

13. Section 303Z1 explains that where an enforcement officer, as defined, has reasonable grounds for suspecting money in a particular account is recoverable property or intended for use in unlawful conduct, they may apply to the "relevant court "– which in England and Wales is the Magistrates' Court for an AFO which is described as:

> *(a) ... an order that, subject to any exclusions (see section 303Z5), prohibits each person by or for whom the account to which the order applies is operated from making withdrawals or payments from the account;*

14. That prohibition upon making withdrawals or payments can therefore be abrogated in certain circumstances described in the statute as "exclusions".

15. The exclusions section provides as follows:

> *"s.303Z5 Exclusions*
>
> *(1) The power to vary an account freezing order includes (amongst other things) power to make exclusions from the prohibition on making withdrawals or payments from the account to which the order applies.*
>
> *(2) Exclusions from the prohibition may also be made when the order is made.*
>
> *(3) An exclusion may (amongst other things) make provision for the purpose of enabling a person by or for whom the account is operated—*
>
> *(a) to meet the person's reasonable living expenses, or*
>
> *(b) to carry on any trade, business, profession or occupation.*
>
> *(4) An exclusion may be made subject to conditions.*

*(5) **Where a magistrates' court exercises the power** to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Part, it must ensure that the exclusion*

—

(a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs,

(b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and

(c) is made subject to the same conditions as would be the required conditions (see section 286A) if the order had been made under section 245A (in addition to any conditions imposed under subsection (4)).

*(6) **A magistrates' court**, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Part—*

(a) must have regard to the desirability of the person being represented in any proceedings under this Part in which the person is a participant, and

(b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made—

(i) be made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or

(ii) be funded by the Northern Ireland Legal Services Commission.

(7) ...

(8) The power to make exclusions must, subject to subsection (6), be exercised with a view to ensuring, so far as practicable, that there is not undue prejudice to the taking of any steps under this Chapter to forfeit money that is recoverable property intended by any person for use in unlawful conduct."

16. Emphasis has been added to show the draftsman's reference to the Magistrates' Court.

17. Section 303Z14 of POCA gives power to the Magistrates' Court to make a Forfeiture Order upon an application where an AFO has effect.

18. S. 303Z14 states:

Forfeiture order

*(1) **This section applies while an account freezing order has effect**. In this section the account to which the account freezing order applies is "the frozen account".*

(2) An application for the forfeiture of money held in the frozen account (whether all or part of the credit balance of the account) may be made—

(a) to a magistrates' court by a person specified in subsection (3), or

(b) to the sheriff by the Scottish Ministers.

(3) The persons referred to in subsection (2)(a) are—

(a) the Commissioners for Her Majesty's Revenue and Customs,

(b) a constable,

(c) an SFO officer, or

(d) an accredited financial investigator who falls within a description specified in an order made for the purposes of this Chapter by the Secretary of State under section 453.

(4) The court or sheriff may order the forfeiture of the money or any part of it if satisfied that the money or part—

(a) is recoverable property, or

(b) is intended by any person for use in unlawful conduct.

(5) But in the case of recoverable property which belongs to joint tenants, one of whom is an excepted joint owner, an order by a magistrates' court may not apply to so much of it as the court thinks is attributable to the excepted joint owner's share.

(6) Where an application is made under subsection (2), ***the account freezing order is to continue to have effect until the time referred to in subsection (7)(b) or (8)****. But subsections (7)(b) and (8) are subject to section 303Z15.*

(7) Where money held in a frozen account is ordered to be forfeited under subsection (4)—

(a) ***the relevant financial institution with which the frozen account is maintained must transfer that amount of money into an interest-bearing account nominated by an enforcement officer, and***

(b) immediately after the transfer has been made the account freezing order made in relation to the frozen account ceases to have effect.

(8) Where, other than by the making of an order under subsection (4), an application under subsection (2) is determined or otherwise disposed of, the account freezing order ceases to have effect immediately after that determination or other disposal.

Emphasis added.

19. So the system provides for the application to freeze the monies – and an AFO may be made. An order may last up to 2 years. During the currency of an AFO an application may be made for the monies to be forfeit. If it is successful, the AFO comes to an end, and the monies are paid into an account nominated by an enforcement officer.

20. Once an application for forfeiture has been made the AFO continues to have effect until the time referred to in subsection (7)(b) or (8) of s.303Z14(6) – highlighted above. This is expressly subject to s.303Z15.

21. S. 303Z15 provides for the continuation of an AFO made by the Magistrates' Court pending appeal by a partly disappointed applicant (subsection (2)) or a fully disappointed applicant (subsection (3)):

"(1) This section applies where, on an application under subsection (2) of section 303Z14 in relation to an account to which an account freezing order applies, the court or sheriff decides—

(a) to make an order under subsection (4) of that section in relation to part only of the money to which the application related, or

(b) not to make an order under subsection (4) of that section.

(2) The person who made the application under section 303Z14(2) may apply without notice to the court or sheriff that made the decision referred to in subsection (1)(a) or (b) for an order that the account freezing order is to continue to have effect.

(3) Where the court or sheriff makes an order under subsection (2) the account freezing order is to continue to have effect until—

(a)the end of the period of 48 hours starting with the making of the order under subsection (2), or

(b) if within that period of 48 hours an appeal is brought under section 303Z16 against the decision referred to in subsection (1)(a) or (b), the time when the appeal is determined or otherwise disposed of."

22. Importantly for present purposes, this provides a mechanism to extend an AFO where the applicant for the Order is dissatisfied with its scope, or with the fact the court declined to make it and preserves the position until after an opportunity to consider and make an appeal has been afforded.

23. The *general* right of appeal, which does not contain that mechanism preserving then AFO, is found in s.303Z16 which provides:

(*1) Any party to proceedings for an order for the forfeiture of money under section 303Z14 who is aggrieved by an order under that section or by the decision of the court not to make such an order may appeal—*

(a) from an order or decision of a magistrates' court in England and Wales, to the Crown Court;

(2) An appeal under subsection (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.

(3) ***The court hearing the appeal may make any order it thinks appropriate.***

(4) If the court upholds an appeal against an order forfeiting the money, it may order the release of the whole or any part of the money.

(*5) Where money is released by virtue of subsection (4), there must be added to the money on its release any interest accrued on it whilst in the account referred to in section 303Z14(7)(a).*

24. S. 303Z17 provides:

"(*1) Money forfeited by an order under section 303Z14, and any interest accrued on it whilst in the account referred to in subsection (7)(a) of that section—*

(a) if forfeited by a magistrates' court, is to be paid into the Consolidated Fund, and

(b) if forfeited by the sheriff, is to be paid into the Scottish Consolidated Fund.

(2) But it is not to be paid in —

(a)before the end of the period within which an appeal under section 303Z16 may be made, or

(b)if a person appeals under that section, before the appeal is determined or otherwise disposed of."

The Arguments.

25. The Appellant relies upon s.303Z16(3) as granting a power in the Crown Court to make an order like a Magistrates' Court order of "exclusion" such that monies may be paid out of the account to cover legal fees expended or to be expended on an appeal. There is certainly no express provision in the statute with regard to such a power in the Crown Court. As the provisions above show, however, in the Magistrates' Court a general power to vary is given by given by ss. 303Z4 and 303Z5 under the heading "Exclusions".

26. The Appellant says her Article 6 rights are infringed unless s.303Z16(3) is so construed because the complications of cases brought under this regime often necessitate specialist argument and/or expert opinion. It cannot be that Parliament intended no funds might be released when an appeal is brought.

27. The Appellant submits that there is no jurisdiction in the Magistrates' Court in her case, and Parliament must have intended that the Crown Court could be in the same position as the Magistrates' Court particularly where, as here, the hearing in the Crown Court is de novo. She refers to the fact that an application to the Magistrates' Court for an exclusion in order to pay legal fees must be made to that court at a time when the AFO is in existence, not after it has ceased to exist because an order for Forfeiture has been made. That means that the Magistrates' Court power is unavailable to her here. She cannot make an application under s.303Z5 because there is no AFO to vary anymore – the Forfeiture order has brought it to an end.

28. The argument on behalf of COLP is that the section of the statute upon which the Appellant relies does not, when properly construed, include such power. In his skeleton argument Mr Gary Pons argued that read in the context of the other provisions in this part of POCA, the scope of the phrase is limited to permissible orders made by the Crown Court consequential on findings in an appeal. The phrase is conditioned by "*the court hearing the appeal*" and the subsections deal with the consequences of upholding an appeal - such as the power to order the release of monies previously held or some of them.

Consideration

29. The nature of the regime is draconian, submits Mr Pons, the powers of the court are stringent and clear: there is a material difference between funds the subject of an AFO and funds the subject of forfeiture. In the latter case proprietary rights are lost. Accordingly, it is essential that at the earlier stage such applications as are necessary are made. Mr Pons points to the detailed application and notification stages of the forfeiture process as demonstrating that no unfairness is caused by this regime. I agree.

30. It is the case that the Magistrates' Court's jurisdiction to make a variation to an AFO to allow the payment out of legal costs only exists at a time when the freezing order is still in place and before the mechanism after forfeiture takes effect. In my judgement the Respondents' reading of the statute is correct – the provisions concerning the Crown Court relate to orders on an appeal, and do not by their wording incorporate the quite particular power to take from the fund which has been forfeit.

31. As the statute shows, an AFO ceases to be in place once funds following a Forfeiture order have been transferred into another account under the control of the authorities. This takes effect until there has been an outcome which allows the authorities to transfer the monies to the Consolidated Fund. Monies may only be transferred out of the Consolidated Fund by statutory instrument.

32. The Magistrates' Court has jurisdiction to make an order either *ex parte* or *inter parties* when the statutory criteria are fulfilled. Thereafter the authorities will seek an order for the forfeiture of the funds in question. The court then makes an order causing that to happen, and where such an order is in place there is no longer an AFO.

33. Where an appeal is raised, and no request has been made in the Magistrates' Court *before* the dissolution of the AFO, there is no jurisdiction on the face of the statute in the Magistrates' Court or elsewhere to allow the payment out of reasonable legal fees. This does not, however, work a fundamental unfairness. I can see no reason of general principle why monies for a projected appeal should not be forthcoming on an early application, indeed many reasons to say that they may be appropriately incorporated in an application at an early stage.

34. Although there is a 48-hour grace period during which time there is a continuation of the account freezing order in circumstances where the *authorities* wish to challenge a partial or complete failure before the magistrates, as noted no such provisions exist in the corresponding appeal provisions that apply to the Appellant. That reflects the thrust of the provisions which, at the point of forfeiture, change the position as to ownership of the funds in issue, unless and until the Order of the Magistrates is set aside.

35. It seems to me therefore that an application can and should be made at the outset of such proceedings: that is to say at a time when the AFO is still in place, and a variation of the AFO is possible, to cater for legal expenses *in futuro*. The wording of the relevant section indicates that reasonable legal expenses includes expenses which a person "*has reasonably incurred*" or that the person "*reasonably incurs*" plainly deals with both past and future. It is a capable therefore of being read to include an amount that deals with any appeal that may be brought. The funds may be released "*enabling a person to meet legal expenses in respect of proceedings under this Part –…*" (See subsection (6)) and in my judgement it is clear that an appeal to the Crown Court is a part of "*proceedings under this Part*". Section 303Z 16(1)(a) refers to appeal to the Crown Court and indicates the time such application must be made and gives the court's jurisdiction as "*may make any order it thinks appropriate*". This is clearly describing the appeal hearing - its timing and its format are comprehended within this section – it is not suggested any other sections or "part" applies. The relevant Rules cater for over-payments.

36. Even if I were to accept as submitted by the Appellant, that an article 6 right to representation was engaged here (and I doubt it is), that right can be safeguarded by making either the first application for funds before the magistrates comprehensive, and inclusive of appeal provision. Alternatively, it would be possible for those who wish to appeal any future forfeiture order to ask at the stage after the AFO has been made, but just before the forfeiture order is to be made, at a directions hearing or CMH for the Magistrates' jurisdiction to be exercised in their favour when the shape of the later proceedings becomes clear.

37. If necessary, it must be explained to the Magistrates' Court that there is no power in the Crown Court at this stage to make such an order and that is necessary for a transfer of funds at that point. There is a widely drafted power under section 303Z6 entitled *"Restriction on proceedings and remedies"* that provides

> *"If the court in which proceedings are pending in respect of an account maintained with the relevant financial institution is satisfied that an account freezing order has been applied for or made in respect of the account, it may either stay the proceedings or allow them to continue on any terms it thinks fit."*

In that way, or indeed by the Magistrates' Court exercising its powers of case management, the dissolution of the AFO could be stayed pending a decision on the release of funds in order to defend any appeal, if needed, against a Forfeiture order.

38. I was helpfully shown the earlier statute upon which the current POCA provisions are drafted. There seemed in that case to be, in a case concerning drugs, no reason why such a power could not exist and indeed it expressly did. This gave the power expressly to the Crown Court as well as to the Magistrates' Court when the matter was before them. That is not the position here, nor this regime, which was added by amendment in 2017.

39. I am fortified in my analysis by the case of *R. (on the application of NCA) v Westminster Magistrates' Court* [2022] EWHC 2631 (Admin) where the regime here under consideration was described (paragraph 14) as "a *substantial and complex legal regime for the control and recovery, by law enforcement agencies such as the NCA and/or*

through the courts, of property connected in specified ways to the commission of crime."

40. It is in my judgement a stringent and draconian regime designed swiftly to enable forfeiture as the statutory purpose reflects. This supports my analysis.

41. In summary therefore, I do not accept that the provision concerning the Crown Court should be written down in order to accommodate Article 6 or other expression of a respondent's right. There is strength in the suggestion that it would require more than that as a matter of drafting in any event. It would require the effecting of a coherent system of costing and organising of legal funds in the same way as in the Magistrates' Court, had an application be made at an earlier date. That intention cannot be deduced from the statutory scheme.

42. Accordingly, the Crown Court Judge was, in my view, entirely correct. This appeal must be rejected.