

# Financial Investigation and the Proceeds of Crime Act 2002

## Briefing for police and crime commissioners

In these times of tightened budgets, police and crime commissioners need to explore every opportunity to raise revenue. Legislation provides an opportunity for this, in the form of the Proceeds of Crime Act (POCA) 2002.

In this article, Steve Wilkinson of the Serious and Organised Crime Agency (SOCA) describes the background to the act and the procedure of its usage. By utilising this legislation to recover the maximum possible criminal assets, PCCs can provide a significant amount of additional funding to support their crime reduction initiatives. Wilkinson notes that POCA is not just available to seize the assets of those committing large-scale financial fraud, but also for those involved in low value, high frequency acquisitive crime of the type that blights communities.

## Financial Investigation

Financial Investigation is an important tool in the fight against crime. It can provide valuable new avenues for traditional law enforcement investigations.

The Proceeds of Crime Centre vision for policing is:

*To integrate financial investigation across investigative processes in order to enhance the quality of investigations, disrupt criminality protect communities and build public trust and confidence.*

The principles underpinning this vision are:

- To provide a quality service to victims of criminal activity
- To build public trust and confidence in our criminal justice system
- To make greater use of the financial investigation to reduce threat, harm and risk
- To remove negative role models from our communities
- To prevent criminals and their associates from laundering the proceeds of criminal activity and to detect and penalise such laundering when it occurs
- To recover any benefit that has been made from crime or which is intended for use in crime
- To remove criminal capital to ensure it cannot be used to fund further criminality
- To use the proceeds recovered for the benefit of communities
- To develop an international reputation for excellence

## **Proceeds of Crime Act 2002**

In June 2000 the Cabinet Office Performance and Innovation Unit (PIU) published its report into the effectiveness of existing legislation in relation to the confiscation of criminally-acquired assets. "Recovering the Proceeds of Crime" concluded that existing legislation was well-meaning but frequently ineffective. It proposed extending civil powers to make it easier for law enforcement agencies to deprive criminals of their ill-gotten gains and wider use of taxation powers in those cases where confiscation proved impossible.

The PIU report was accepted and, as a direct result, the Proceeds of Crime Act 2002 entered the statute books. It brought together a range of financial investigation tools under one umbrella. In addition, its implementation measures sought to change the traditional approach to financial investigation.

Within the legislation Parliament brought together the previous legislation under into one place. Investigations into acquisitive crime and drug trafficking are all now in a "one stop shop" Act.

Pre-charge restraint of criminal property, money laundering and the confiscation of criminal benefit were all updated within the Act. In addition, the requirement for banks and other organisations within the Regulated sector to make Suspicious Activity Reports to the UK Financial Investigation Unit (FIU) at SOCA reinforced the Money Laundering regulations that the industry were regulated by.

The confiscation of assets under POCA has continued to rise year on year since 2003 when the legislation was enacted. Over £1.2bn has been removed from the criminal economy over this period of time.

The legislation also created "non conviction based asset recovery" or Civil recovery as it is known allowing prosecutors to remove assets that are believed to have criminal origins even when there is no conviction or the defendant has fled the jurisdiction after conviction.

The Proceeds of Crime Centre was established to train, accredit and monitor the use of the intrusive powers given to investigators across a whole range of law enforcement agencies in England, Wales and Northern Ireland. To date there are 3500 accredited financial investigators.

All 43 Police Forces have accredited financial investigators with the powers available not just to police officers, but to police staff too.

Supporting Police Forces are Regional Asset Recovery Teams (RARTs,) a cost effective resource tackling crime and criminal assets at a Regional level.

The Assets Recovered Incentivisation Scheme (ARIS) managed by the Home Office allows for certain percentages of recovered assets and cash seized under POCA to be paid to all law enforcement partners involved. Currently the percentage split is 18.75% to police and prosecutors and 12.75% for the Court service in POCA confiscation cases and 50% to police only in cash detention cases. It must be remembered that the assets obtained from

criminality often have a much lower value when disposed of and the time from arrest until confiscation order is granted is around 18 months.

Whilst an important driver behind the Act, restraining and confiscating criminal assets is not just the only way that financial investigation should be used as a law enforcement technique.

Many of the powers of POCA, such as money laundering and cash detention are available to all police officers and should be used at the outset of any investigation or problem solving decision.

POCA is not just for attacking high value International drug traffickers and fraudsters, but is equally as effective at disrupting and deterring those committing low value, high volume crime either as a lone criminal or in a street gang.

The effective use of financial investigation and the Proceeds of Crime Act sends a strong message to both criminals and the community that “crime will not pay”.

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**(and responsible for the Part 1 S3 POCA)**

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