

# Thematic Briefing

## Economic Crime

November 2022

D/Superintendent Liz Rogers

ACC Davison



**1.0 Background / Context**

- 1.1 The Economic Crime Unit (ECU) are dedicated to ensuring that Financial Investigation is used to tackle crime and the causes of crime within Lincolnshire, aligning with the wider strategic direction of the force in respect of investigations, disruption of criminality and the recovery of funds from crime for the benefit of victims, working to protect from harm and help those in need.
- 1.2 The Proceeds of Crime Act 2002 (PoCA) provides for the confiscation or civil recovery of the proceeds from crime and contains the principle money laundering legislation in the UK.
- 1.3 A confiscation order is made after conviction to deprive the defendant of the benefit that they have obtained from crime. It follows that it is wholly dependent on the conviction rate of relevant crime types across the whole force as well as factors such as assets available to the defendant and their identification together with the amount of benefit that can be attributed to their offending.
- 1.4 Our approach to the identification of cases suitable for confiscation is robust. All charged and postally requisitioned cases are reviewed weekly to identify suitable cases which are then developed further. Confiscation is prescribed in law and therefore is not an optional process. It is a mechanism to deprive offenders of their gains as well as providing compensation to victims where appropriate.
- 1.5 Orders obtained under Part 5 of PoCA result mainly from the identification and seizure of cash (£1,000 or more) and certain valuable items seized by officers during search warrants or similar powers. These items are generally seized initially under PACE as evidence of criminality, but should the criminal case not proceed, the ECU will seek to forfeit them using the civil powers of PoCA based on the balance of probability as opposed to the criminal standard required for prosecution. Cases that are successfully prosecuted where cash or valuables have been seized will result in those items being realised in the confiscation process.
- 1.6 Account Freezing Orders work in a similar way to the other Part 5 orders, but the legislation allows the police to freeze bank accounts where it can be shown that the funds therein are, on the balance of probability, the proceeds of criminal activity or are to be used in further criminal activity. Similarly, PoCA provides for the seizure and forfeiture of listed types of

personal or moveable property that are suspected to be the proceeds of unlawful conduct or intended for use in such conduct.

- 1.7 Occasionally neither confiscation nor Part 5 Orders are an appropriate method of denying criminal assets. In these cases, other deprivation orders are sought to ensure we don't allow funds to be returned to defendants. Such orders include forfeiture under the Misuse of Drugs Act.
- 1.8 Funds from confiscation orders and Part 5 orders that are paid by defendants are collected by HM Courts & Tribunals Service (HMCTS). In respect of confiscation orders only, the court may elect to have the proceeds of the order paid to the victim of the offence in question in the form of compensation. HMCTS will distribute these funds as and when they are collected. In cases where no victim exists, confiscation funds are shared broadly between the Home Office, law enforcement, Crown Prosecution Service (CPS) and the courts using the Asset Recovery Incentivisation Scheme (ARIS). The share made available to the police is 18.75% less a small percentage taken as a top slice to fund national projects. In the case of Part 5 orders the police and Home Office share the amount forfeited equally.
- 1.9 Every opportunity is taken to ensure that confiscation orders reflect the need to repay the victims of crime. We also recognise that denying assets to criminals also results in significant funds coming back into force, specifically the Police and Crime Commissioner (PCC), under the ARIS scheme. Only when an order is paid will funds be allocated to the various stakeholders. Forces do not have any responsibility for enforcement of orders. If they are not paid by the defendant, they will serve a sentence in default commensurate with the value of the order which can be up to 10 years. Consequently, the values of orders will not necessarily reflect the amounts received through ARIS.
- 1.10 Money laundering is a term used to describe a scheme in which criminals try to disguise the identity, original ownership, and destination of money that they have obtained through criminal conduct. The laundering is done with the intention of making it seem that the proceeds have come from a legitimate source. Put simply, money laundering is a series of financial transactions that are intended to transform ill-gotten gains into legitimate money or other assets.

- 1.11 Routinely, ECU actively consider, encourage, promote, and utilise this piece of legislation in all their workstreams. Work undertaken within ECU includes the determination of where money has come from, how it is moved and how it is used. It is a powerful piece of legislation dictating that staff within ECU frequently provide advice to investigating officers across the force.

## 2.0 Developments over last 6-12 months

- 2.1 Performance is ordinarily recorded in financial years, however, for the purpose of this document, the amounts quoted cover the period November 2021 to October 2022.

### Confiscation orders

Drug Related Cases	Other Crime Cases	Total Number of Orders	Total Value of Orders	Identified Benefit
£632,977.28	£176,459.52	48	£809,437.20	£48,374,790.86

### Part 5 PoCA orders

Part 5 PoCA Orders	Number of Orders
£84,845.44	20

### ARIS Funding

2021 / 22 Q3	£422,406.15
2021 / 22 Q4	£ 47,811.51
2022 / 23 Q1	£ 15,993.66

The above does not include 2022 / 23 Q2 for the reporting period as these are yet to be remitted to force.

## 3.0 Forward look 6-12 months

- 3.1 As stated, confiscation is wholly dependent on the number of convictions obtained across the force where the offence is suitable for confiscation to be considered. Although not a specific indicator of future demand the crime figures for England and Wales suggest a plateau of demand over the last 4 years, however, it is expected that fraud offences will continue to rise. Acquisitive crime in general is expected to increase given the current economic climate and the spike experienced in the cost of living. A rise in acquisitive crime could be translated into more confiscation opportunities.

- 3.2 Horizon scanning provides us with information of what may impact the ECU. An example being the Economic Crime Act 2022 and Economic Crime Bill. The Economic Crime Act received Royal Assent March 2022 (fast-tracked due to financial sanctions on Russians resulting from Ukrainian war). Further financial reforms are to follow including a reform of Companies House that will give powers to challenge false / inaccurate information and share more information with law enforcement.
- 3.3 Other measures to be included in the second Bill include new powers to seize crypto assets, enhanced anti-money laundering powers to encourage businesses to share information on suspected economic crime, and measures to restrict the misuse of limited partnerships
- 3.4 More control and powers in preventing and intervening in criminal financial activities will drive demand and assessments may need to be made as to whether the force has enough capacity to deal with this. The tightened measures may assist the force in managing and identifying larger scale problems such as Organised Crime Groups (OCGs).
- 3.5 Technological advancements are also identified which may affect demand. The Treasury has announced regulation of some cryptocurrencies ('stablecoins'), which will become a recognised form of payment. Continuing growth of online currencies may impact on training and skills of officers in dealing with crimes if the use of digital currencies becomes more prevalent amongst the public. This is also likely to further drive demand for departments highly involved in economic and online crime.
- 3.6 Cash has always been a preferred method of value transfer by drug dealers and the wider criminal fraternity and opportunities will always be available to seize and forfeit cash in the execution of police investigations and enquiries. Legislation is more recent in terms of funds held in bank accounts that can be seized and ultimately forfeited under civil powers by the police. Cash has to enter the financial institutions at some point as it forms a necessary part of the laundering process to distance it from criminality. Opportunities to use this legislation are routinely considered within the ECU.

#### **4.0 Issues of Exception – Opportunities / Risks**

- 4.1 The emerging trend in cryptocurrency and the new powers that will come in force as a result of legislation will affect the force's ability to meet future forecasted demand in terms of

investigation, asset identification and denial if the relevant necessary personnel are not trained adequately and the mechanisms are not in place in terms of software.

## **5.0 Key Public Messages**

5.1 Specialist Financial Investigators within Lincolnshire Police use the Proceeds of Crime Act to relentlessly pursue organised criminals, including drug dealers, fraudsters, and thieves to ensure they are unable to benefit from their offending. Their expertise and diligence have resulted in successful outcomes in the form of confiscation orders or forfeitures orders. Where there has been an identifiable victim, sums repaid under the proceedings have been returned to them in the form of compensation. Where there is no victim, the repaid sums are distributed to operational agencies including Lincolnshire Police under the Asset Recovery Incentivisation Scheme (ARIS).