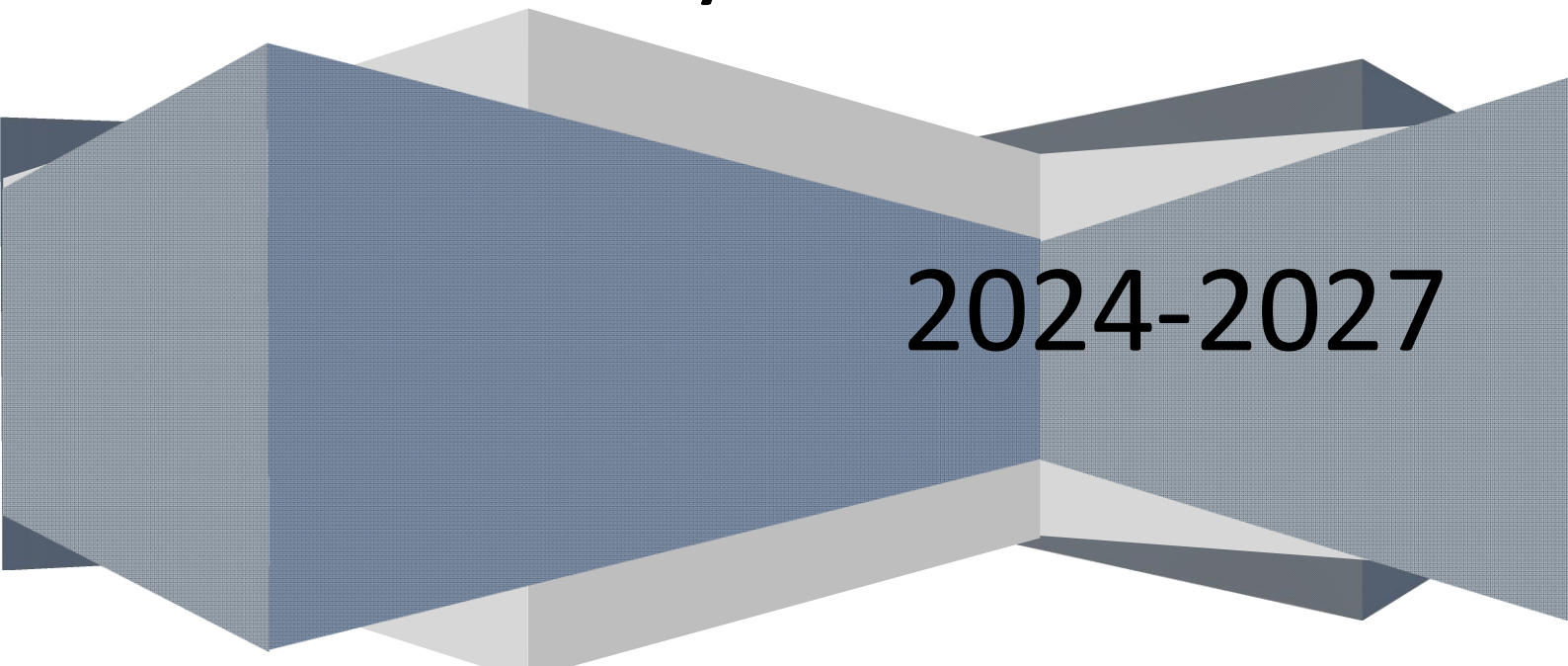


**Public Protection
Partnership**

Environmental Health
Licensing &
Trading Standards

The Proceeds of Crime Act 2002 and Asset Recovery Incentivisation Scheme



2024-2027

Document Control

Document Ref:	Proceeds of Crime Act and Asset Recovery Incentivisation Scheme	Date Created:	August 2024
Version:	V1	Date Modified:	
Revision due	October 2027		
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Owning Service	Public Protection Partnership		

Change History

Version	Date	Description	Change ID
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1. Background

- 1.1 It was the will of Parliament, at the time the [Proceeds of Crime Act 2002 \(POCA\)](#) (the Act) was enacted, that those that operate outside of the law by committing criminal offences should not benefit from their criminal activity.
- 1.2 The purpose of this policy is to explain how any proceeds of crime recovered will be allocated under the Asset Recovery Incentivisation Scheme (ARIS). This scheme was set up and is promoted by the Home Office.
- 1.3 This policy should be viewed in the context of the Inter Authority Agreements which forms the basis of the partnership between the partner authorities (Bracknell Forest, Wokingham and West Berkshire Councils) and the suite of policies associated with the partnership and in particular the Enforcement Policy that engages the Code for Crown Prosecutors as the basis for decision making.
- 1.4 Protecting Consumers from Fraud and Protecting and Informing Consumers are two of the agreed priorities for the Service. In addition, one of the Service's cross cutting themes sets out the intention to look for opportunities to tackle consumer and business detriment caused by eCrime across all its themes, priorities and projects. Protecting vulnerable adults and children remains a key priority for the PPP.
- 1.5 Additionally, the PPP recognises that the utilisation of the powers provided by the Act can make a significant contribution to the disruption of criminal enterprises that are harmful to our residents and businesses. The primary criminal activity that the PPP engaging powers under Act consists mainly of the suite of money laundering offences often in conjunction with substantive investigations into fraud, consumer protection legislation and Trade Marks Act offences etc.
- 1.6 When investigating these criminal cases, the PPP will consider whether asset recovery proceedings are appropriate within the legal framework set out under the Act together with relevant guidance. The opening paragraph of the Crown Prosecution Service (CPS) guidance confirms that asset recovery is designed '*to deprive offenders of the proceeds of their criminal conduct; to deter the commission of further offences; and to reduce the profits available to fund further criminal enterprises. (See R v Rezvi [2002] UKHL 1 and R v Waya [2012] UKSC 51).*' Where appropriate any confiscation proceedings can be conducted with a view to achieving compensation for the victims identified and that the defendant was convicted of.
- 1.7 Where assets are recovered through confiscation, the investigating body and the PPP receives a proportion of those assets under the [terms of the ARIS](#). This is a scheme set up and promoted by the Home Office to encourage agencies to take the benefit out of crime by allowing some of the money recovered back to the agency to be allocated for specific purposes. The purpose of this policy is to agree how any monies received are to be allocated.

2. Legislative Context

- 2.1 The legal basis within which this policy operates can mainly be found in the Proceeds of Crime Act 2002. The Act is the most common method for seizing/denying and recovering proceeds of crime but there is other legislation that

may be used in addition or instead of the Act. Such actions are always considered in line with this policy and the policies mentioned in **Error! Reference source not found.****Error! Reference source not found.**

3. General Principles

3.1 In considering the need for utilising the powers under the Act, the following should be taken account of:

- the legal framework as mentioned above under the Act, relevant guidance and the policies as mentioned in 1.3 above,
- the possibility of compensation for consumers/victims,
- the contribution to local crime and disorder strategies and other corporate priorities as set out in the Bracknell Forest Borough Council (BFBC) 2023 to 2027 Council Plan and the West Berkshire Council 2023 to 2027 Council Strategy,
- the need to consider pre-conviction orders as part of the prosecution process in connection with money laundering investigations and the need to consider post-conviction orders as part of confiscation investigations,
- the disruption and investigation of 'lifestyle criminals' such as counterfeiters, persistent perpetrators of property maintenance and repair fraud, fraud more generally and those who have benefitted financially from their crimes.
- the need to ensure that crime does not pay and is seen not to pay, and
- helping to meet the expectations of legitimate businesses and consumers.

3.2 The PPP makes use of financial investigations as an integral part of criminal investigations and where acquisitive crime is perpetrated. Acquisitive crime describes offences where the perpetrator derives material gain from the crime, known as criminal benefit. Criminal benefit is any property (including currency) or [pecuniary advantage](#) obtained as a result of conduct that is an offence in England or Wales or would be an offence if it occurred in England and Wales.

3.3 When a person has benefited from their crime, the first objective is to secure a criminal conviction. A successful prosecution can lead to confiscation, which is not just for serious crimes but also applies in most cases where a criminal benefit has been obtained.

3.4 Confiscation proceedings will, if possible, remove the benefit of that crime and dissuade offenders and others from trading illegally or committing further crimes.

3.5 Officers are directed to seek advice from a financial investigator when a PPP investigation is started to determine whether a parallel financial investigation is appropriate. Officers should consider, as the investigation progresses, whether the suitability of a financial investigation may become appropriate. Referral of investigations to the financial investigators can result in the true extent of the criminal activity being uncovered, the correct perpetrators being prosecuted and enable recovery of assets and criminal benefit, thereby enabling the deterrent aspect of the Act.

4. Implementation of ARIS

4.1 After a confiscation and recovery of benefit or assets is completed, the Home Office retains 50% of all seized assets, the other 50% is divided as follows:

- Investigation – 18.75%
- Prosecution – 18.75% and
- Enforcement (through the courts) – 12.5%.

It should be noted that the final law enforcement/prosecution allocation loses a further circa 5% 'topslice'.

- 4.2 The PPP has set up a separate cost centre to hold all monies received from the Home Office under ARIS. There is no income target associated with the cost centre, thereby protecting its integrity for the purpose intended i.e. preventing, reducing and tackling crime. It is expected that the PPP can account for its use of incentive payments on an annual basis and as required, to provide a return to the Home Office setting out in detail how the money is spent and making declarations to that effect of required.
- 4.3 Based on published guidance from the Home Office the clear intention is that these payments are to be used to 'further drive-up performance on asset recovery and, where appropriate, to fund local crime fighting priorities for the benefit of the community'.
- 4.4 The nature of the PPP service will inevitably lead to costs being incurred to investigate primarily criminal activity. These costs range from barrister fees and expert witnesses through to sampling and product testing. In the concluding stages of an investigation, it is normal practice for the service to advise legal representatives of their costs so that in court, lawyers request recovery of these costs from the defendant and they are referred to as 'Disbursements'.
- 4.5 It is not always possible to recover the full amount for these disbursements and therefore in the first instance the existing POCA reserve has been allocated to pay disbursements where costs are not recovered fully in court proceedings. This is in addition to funding already identified in existing revenue budgets and money recovered through regional and national grant funding. The mechanisms for dealing with exceptional costs as set out in the Inter Authority Agreement apply should this matter need to be revisited.
- 4.6 The ability to recover costs or assets and the existence of any reserve shall have no bearing on the decision to prosecute. Each case will be treated on its merits and considered against the [enforcement policy](#).
- 4.7 Once the disbursement reserve has been set aside, it is proposed that any money from the existing reserve is allocated to the following priority areas:
- Additional Accredited Financial Investigator resource;
 - Communications to reduce crime through prevention and increased reporting;
 - Trading Standards or Environmental Health professionals who are deployed on specific crime related matters e.g. a Fraud Victim Support Officer post assisting victims.

5. **Applicability**

- 5.1 The PPP will conduct a financial investigation in cases where there are alleged offences of money laundering.

5.2 Officers will consider confiscation investigations where there is (or likely to be) convictions of offences that meet the thresholds within the Act with a view to making an application to a court for a confiscation order to be made to the value of the benefits derived from the crimes. This is done in consultation with PPP's lawyers in the Case Management Unit (CMU).

5.3 The Service Lead for Public Protection, in consultation with CMU, ensures that all referrals under the Act are fully investigated and, where appropriate, confiscation or forfeiture of assets is applied for.

6. Implications of the Policy

Financial Implications

6.1 A proportion of the amounts confiscated under the Act is returned to the PPP under ARIS. Any funds received through the scheme must be used for the further prevention or reduction in crime or further asset recovery. This money is ringfenced and is not used as a revenue or capital funding stream by the partner authorities outside of this policy.

Staffing and training

6.2 There are safeguards to ensure that financial investigations cannot be commenced without authority to do so.

6.3 All Financial Investigators receive training from the Proceeds of Crime Centre (POCC), part of the National Crime Agency. This training and subsequent workbook / portfolio of evidence must be completed before full accreditation is awarded.

6.4 Accreditation is maintained through the completion of Continuing Professional Development (CPD) and provision of evidence to POCC which is uploaded via the Financial Investigation Support System (FISS) website.

6.5 Financial Investigation awareness training should form part of the routine training and development programme for relevant members of the Service.

7. Roles and Responsibilities

7.1 The overall responsibility for overseeing the Act within the PPP sits with the Service Lead for Public Protection.

7.2 The responsibility for day-to-day management of activity under the Act throughout the PPP rests with the Strategic Manager Case Management Unit. They are also responsible for maintaining this policy and for providing advice and guidance on its application.

7.3 The Service works with a number of other law enforcement agencies that conduct financial investigations to ensure it maximises the effective use of the powers provided by the Act including:

- Thames Valley Police (TVP)
- National Crime Agency (NCA)
- His Majesty's Revenue and Customs (HMRC)

- The Consumer and Markets Authority (CMA)
- Other local authorities (Corporate Fraud)
- Department of Work and Pensions (DWP)
- UK Border Agency (UKBA)
- UK Financial Intelligence Unit (UKFIU)
- Asset Confiscation Enforcement Team (ACE)

7.4 The Inter-Authority Agreement (IAA) charges the Joint Public Protection Committee with the responsibility to oversee service delivery and performance including financial performance. The JPPC is charged with considering any revisions to the Asset Recovery Incentivisation Scheme policy and is asked to note on an annual basis, as part of the budget setting cycle, that this funding does not form part of the revenue budget and that funds are allocated in accordance with this policy.

8. Review

8.1 This policy will be reviewed to respond to any changes and at least every three years and will consider any changes to legislation, legal challenges and any discrepancies raised with regards to the policy.

8.2 The Joint Public Protection Committee, in accordance with the Inter-Authority Agreement will be responsible for reviewing and approving any changes to this Policy.