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Inspection of
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A CALL TO MAKE BETTER USE OF ASSET RECOVERY POWERS JOINT INSPECTORATES' REPORT

Asset recovery is a vital weapon in the armoury of law enforcement but opportunities are being missed to strip criminals of cash and assets that represent the ill-gotten benefits of their criminality, according to a report published today.

Her Majesty's Inspectorate of Constabulary, (HMIC) Her Majesty's Inspectorate of the Crown Prosecution Service (HM CPSI) and Her Majesty's Inspectorate of the Magistrates Courts (HMMCSI) teamed up to carry out the review and produce the publication.

The report, "Payback Time", sets out the findings of the joint inspectorates' review of asset recovery since the introduction of new powers under the Proceeds of Crime Act 2002 (POCA). It particularly highlights the implementation by the police, Crown Prosecution Service (CPS) and Magistrates Courts of powers relating to cash seizure, asset confiscation and money laundering.

The review identifies pockets of excellent practice but finds that the overall application of the powers across England and Wales is patchy and current activity is often only targeted at the higher profile 'crime barons' and almost exclusively against drug trafficking. In so doing, agencies are failing to use the Act to its full potential. They are missing opportunities to combat those engaged in volume crime, street robbery and low level drug dealing. It is in these areas that the public sees the trappings of criminal wealth and understandably feel that in many cases crime *does* pay.

Speaking on behalf of the three inspectorates involved in the review, Her Majesty's Inspector of Constabulary (HMIC), Kate Flannery, said:

"The key message of this review is that POCA represents a powerful opportunity to substantially disrupt and deter criminality, but only if it is used on a routine basis against a wide range of criminality.

"There have been some considerable successes as a result of good use of POCA and our report confirms that there are pockets of excellence across the criminal justice system. However, there remains

among practitioners a general lack of awareness of the powers and the extent to which they can be used.

“The Act is not just a tool to target the mansion, yacht or Ferrari of the ‘crime baron’. There is considerable untapped potential to use the powers to disrupt and deter the prolific burglar and street corner drug dealer as well.

“Volume crime has reduced significantly in recent years but acquisitive crime remains a multi-billion pounds business. There is a real opportunity to target those who seek to profit from their ill-gotten gains and at the same time send a strong message to the public and any aspiring young criminals that crime does not pay.”

“It is important to recognise that this excellent piece of legislation is still relatively new and so we must not be pessimistic about its current level of use. However, it can be used more effectively and I am confident that this review and recommendations will add momentum to the use of these powers, so they will have an even greater impact on crime.

The report makes 11 recommendations (attached in full) including:

- amendment to legislation to permit both police officers and police staff to make applications at court for detention and forfeiture of seized cash;
- drawing up a model framework and guidance for the best use of financial investigation skills;
- guidance to all police forces to make better use of the info provided by SARs. (Suspicious Activity Reports);
- early identification by police and CPS of potential confiscation cases;
- integration by police into mainstream work;
- amending the time limit for application to the magistrates’ court following a cash seizure, so that the 48-hour period excludes Sundays and Public Holidays
- police and CPS develop complementary asset recovery targets
- improvements in staff training and awareness

The report sets out many good practice examples and provides a simplified guide to the three main powers of greatest importance to operational staff, and in particular police officers, namely:

- cash seizure
- asset confiscation, and
- money laundering

Notes to editors:

1. The purpose of a Thematic Review is to examine an issue of significance to the relevant services nationally and clearly to identify and disseminate existing good practice to bring about an improved response or performance.
2. “Payback Time – Joint Review of Asset Recovery since the Proceeds of Crime Act 2002” was a joint review conducted by Her Majesty’s Inspectorate of Constabulary (HMIC), Her Majesty Crown Prosecution Service Inspectorate (HMCPSI) and Her Majesty Magistrates Court Service Inspectorate (HMMCSI). HMIC was the lead inspectorate for this review.
3. As an example of what can be achieved it was found that in one routine stop and search, a uniform patrol officer discovered a local suspected drugs dealer in possession of over £10,000 cash. This was seized and when his house was searched further large sums of cash were also discovered and were seized. This led to a conviction for money laundering and a substantial prison sentence
4. A full list of recommendations is attached. Copies of the full report are available on the HMIC website at www.homeoffice.gov.uk/hmic/pocathematic.pdf. Hard copies are available to media on request from Home Office Press Office 020 7273 2465.

RECOMMENDATIONS

- That Chief Constables, CCPs, CCMs, JCEs and the future HMCS Area Directors ensure that effective systems are in place to collect and collate POCA data, so that end-to-end performance information can be provided in a timely fashion to support Joint Asset Recovery Database (JARD) nationally and manage performance locally.
- That Chief Constables, CCPs, CCMs, JCEs and the future HMCS Area Directors develop a joint suite of performance indicators to reinforce their commitment to crime reduction through obtaining and enforcing criminal confiscation orders, and monitoring the Incentivisation scheme. They should make appropriate use of LCJBs as vehicles for co-ordinating POCA implementation.
- That the Home Office considers amending the legislation to permit all Asset Recovery Agency (ARA) accredited police staff FIs to make applications during hearings in the magistrates' courts under S.295 and S.296 of POCA for the detention and forfeiture of seized cash.
- That ACPO draws up a model framework and guidance for the best use of financial investigation skills to optimise asset recovery, contribute to force priorities and conform to national good practice. Asset recovery activity should feature in internal inspection/review.
- That NCIS, in consultation with ACPO, issues guidance to all police forces on the most effective means of capitalising on the intelligence potential of SARs.
- That Chief Constables and Chief Crown Prosecutors jointly develop processes to ensure that confiscation and money laundering cases are identified at an early stage, and that these processes help improve communications between agencies, management of workloads and ongoing case monitoring.
- That Chief Constables incorporate POCA considerations into their use of the National Intelligence Model – for example, specifying asset recovery work within control strategies and tactical planning. It is recommended that a national POCA implementation group, along the lines of the Bureaucracy Task Force, is established, to advise police forces and ensure that the opportunities to maximise asset recovery and disrupt criminality are grasped.
- That Chief Constables, CCPs, CCMs and the future HMCS Area Directors each appoint a suitable member of staff at strategic and operational level as POCA champions to actively pursue opportunities to seize criminal assets and disrupt criminality.
- That ACPO and the CPS develop fully complementary local Area targets ensuring that such targets and any associated benchmarks do not introduce competing priorities.
- That Chief Constables, CCPs, CCMs, JCEs and the future HMCS Area Directors review current levels of practitioner training and awareness and ensure that the National Best Practice Guide for Confiscation Order Enforcement informs local practice in enforcing payment of confiscation orders and disrupting criminality. Further, that Chief Constables review

levels of awareness and training in POCA cash seizures and money laundering offences, to improve local practice.

- That the Home Office considers amending the time limit for application to the magistrates' court following a cash seizure so that the 48-hour period excludes Sundays and Public Holidays.