

# **PROCEEDS OF CRIME ACT 2002**

## **Service Level Agreement**

**Between**

**The Association of Chief Police Officers**

**And**

**The Director of Public Prosecutions and  
the Crown Prosecution Service  
of England and Wales**

**2002**

- 1 Introduction**
- 2 Parties to the Agreement**

## **Section A:**

- 3 Requests for early advice in restraint matters**
- 4 Applying for the restraint order**
- 5 Applying for the confiscation order**
- 6 Enforcement of the confiscation order**
- 7 Other PoC applications**
- 8 Quality of paperwork**
- 9 Timeliness of CPS response**
- 10 CPS and police expertise**
- 11 Use of counsel**
- 12 Costs**
- 13 Disagreements about case handling**
- 14 Data collection**
- 15 Liaison**

## **Section B: Signatories**

**Contact lists**

## **1 Introduction**

- 1.1 This Service Level Agreement concerns the co-operation and exchange of services between the Association of Chief Police Officers (ACPO) and the Crown Prosecution Service of England and Wales (CPS) in respect of the investigation, preservation of assets, obtaining and enforcement of confiscation orders and confiscation matters generally.
- 1.2 The Agreement is intended to serve as a general guide to co-operation between the parties and to allow the necessary flexibility in activities that are undertaken between them.
- 1.3 This Agreement is intended to set out the shared aims of the parties to implement the Proceeds of Crime Act 2002 (PoC).
- 1.4 The Agreement also seeks to make clear the realistic expectations and intentions of the parties to it.
- 1.5 Nothing contained within the Agreement alters the constitutional position of the Director of Public Prosecutions and the CPS as set out in the Prosecution of Offences Act 1985, nor the constitutional position of ACPO. Nothing in the Agreement shall be construed as taking precedence over the individual aims and objectives of either organisation.
- 1.6 Where necessary and appropriate, reference should be made to other forms of agreed procedures or guidance, for example the protocol between the CPS Casework Directorate and the National Crime Squad.
- 1.7 The Agreement should be used as a basis for the local protocols between Chief Crown Prosecutors and Chief Constables. These will clarify roles and responsibilities of those involved at Area/force level and set out effective working arrangements for the Act's objectives.

## **2 Parties to the Agreement**

- 2.1 The parties to this agreement are:
  - i) The Director of Public Prosecutions on behalf of the Crown Prosecution Service of England and Wales; and
  - ii) The Commissioner of Police for the City of London on behalf of ACPO.

## **SECTION A**

### **3 Requests for early advice in restraint matters**

- 3.1 Applications for a restraint order may be made once a criminal investigation has commenced, in advance of proceedings being brought and at any stage thereafter in the proceedings.
- 3.2 If a police force considers that it may be necessary to obtain a restraint order, advice should be sought as soon as the criminal investigation is commenced. Such cases may be complex and involve difficult issues; the police should normally seek early advice from the CPS at Area level
- 3.3 CPS lawyers within Areas will be available at an early stage for advice on restraint orders. The police should approach a senior CPS lawyer at an appropriate level in accordance with the procedure set out in their local protocol.
- 3.4 CPS Casework Directorate will be available at an early stage for advice on restraint orders in accordance with the protocol agreed between the CPS and NCS and for any cases, which are referred to it.
- 3.5 In general, the earlier the contact the better. Wherever there is the prospect of a restraint order, the police should ensure that advice is sought and obtained so that an application for a restraint order can be prepared as expeditiously as possible.

### **4 Applying for the restraint order**

- 4.1 Once the police have requested advice, the CPS will provide that advice within an agreed timescale and will thereafter take forward any application for a restraint order by drafting the order, lodging it with the court, making the application and dealing with other ancillary matters, such as variation, contempt, or discharge applications.
- 4.2 Applications on behalf of the police will be authorised by a Superintendent. It will be the responsibility of the police to ensure this has been obtained.
- 4.3 The police will provide such assistance to the CPS as is requested within an agreed timescale. This will include such matters as preparing the supporting witness statement, personally serving any order on any restrained party, monitoring the effect of the order, and attendance at court to assist in the proceedings if required by the CPS.
- 4.4 If any information or evidence is needed to progress an application linked to a restraint or confiscation order, such as an application to the court for an order under the Contempt of Court Act 1981, the police will provide this within the timescale agreed with the CPS.

## **5 Applying for the confiscation order**

- 5.1 The CPS will take forward any application for a confiscation order by making the application and dealing with other ancillary matters.
- 5.2 The police will provide such assistance to the CPS as is requested within the timescale agreed. This will include matters such as preparing the statement of information within the timescale agreed with the CPS or indicated by the Court and attendance at court to assist in the proceedings if required by the CPS.
- 5.3 If any information or evidence is needed to progress the application for a confiscation order, the police will provide this within the timescale agreed with the CPS.
- 5.4 At any stage of a case, if the CPS is of the view that further investigation is required to determine whether an application for a confiscation order is appropriate, the police shall use best endeavours to provide sufficient information within the timescale agreed with the CPS.

## **6 Enforcement of the confiscation order**

- 6.1 If the CPS make an application to the court to appoint a receiver, the police will provide such assistance to the CPS as is requested within the timescale agreed. This will include obtaining any information or evidence needed to progress the application, for instance obtaining an up to date valuation of current assets, and attendance at court to assist in the proceedings if required by the CPS.

## **7. Other PoC applications**

- 7.1 A number of matters come before the courts, which although outside the scope of the CPS statutory duty to review and conduct criminal cases, are so linked to the prosecution process that it is, or may be, appropriate for the CPS to have an involvement with them.
- 7.2 Where the proceedings are linked to the investigation of crime, CPS lawyers may provide the police with advice and representation. However the question of costs should be clarified before any representation is provided to prevent difficulties and disagreements at a later stage. As a general rule, CPS will only represent the police, if the police bear the costs of the proceedings.
- 7.3 Applications for Production Orders, Search and Seizure Warrants, Customer Information Orders, and Account Monitoring Orders are proceedings, which are linked to the investigation of crime and CPS lawyers may provide advice, but should not make the application. If there is a subsequent challenge to any order made, the CPS may provide advice and brief Counsel, but agreement

must be made with the police that they bear the costs of the case including any applications for compensation.

- 7.4 The CPS is not able to provide advice or representation in respect of cash seizures and the police should seek their own civil legal advice.

## **8 Quality of paperwork**

- 8.1 All paperwork for court purposes submitted to the CPS by the police should be typed and follow the standard templates.
- 8.2 Any related file should be submitted in accordance with the requirements of the Manual of Guidance. Police forces should indicate whether a request for a restraint order has been made and set out the current status of the application.
- 8.3 The requirements of the Criminal Procedure and Investigations Act 1996 and the Manual of Guidance must be strictly adhered to. Disclosure schedules should be completed at an early stage in all cases, and consideration should always be given to early consultation with the prosecutor in appropriate cases.

## **9 Urgent requests**

- 9.1 If advice or a restraint order is required urgently, the police should ask the CPS to provide advice within the timescale agreed.
- 9.2 ACPO and CPS both recognise the limitations of advice given where the information upon which the advice is given has been provided orally and where the advice is provided orally. Further, it is acknowledged that where everything is done orally, there is the risk of misunderstanding. Wherever possible, the police will provide written material when seeking advice and the CPS will provide written advice. In urgent cases, oral advice based on oral information may be all that is possible, but a written record of the advice must follow later.

## **10 CPS and police expertise**

- 10.1 PoC work, including advice to the police, and applications to the Crown Court for restraint, confiscation, and receivership orders, will be dealt with, in the main, by CPS Area staff. CPS Casework Directorate will be responsible for advice to the police on restraint, confiscation and receivership orders in its own cases.
- 10.2 The CPS and police will ensure that staff handling PoC work are appropriately experienced to deal with the case in question. This will be achieved by the gateway arrangements set out in paragraph 3.2.

- 10.3 All CPS Areas will have staff trained in the PoC. A network of Area Champions will be set up to provide mutual help and support on casework issues arising from PoC.
- 10.4 CPS Central Confiscation Branch, within Casework Directorate, will, continue to handle its existing caseload, and any applications to be made to the High Court under the Drug Trafficking Act 1994 and Criminal Justice Act 1988. It will also be available to provide general advice and assistance to CPS Areas on casework issues in restraint, confiscation and receivership matters under PoC.
- 10.5 A help desk on implementation issues arising out of PoC will be set up within the CPS Policy Directorate to support CPS Areas.
- 10.6 The police will ensure that staff handling PoC work have been trained to a nationally agreed standard.

## **11 Use of counsel**

- 11.1 Selection of counsel is a matter for the CPS.
- 11.2 In cases of exceptional difficulty and/or sensitivity, the CPS will consider whether counsel should be asked to advise.
- 11.3 Where the police express views about the selection of counsel, these will be taken into account. The final decision on selection of counsel rests with the CPS.

## **12 Costs**

- 12.1 The cost of investigations will be borne by the police. This will include the submission of witness statements and evidential material in a suitable format and any costs associated with the personal service of the order by the police
- 12.2 The CPS will bear the costs of the prosecution and any relevant administration costs associated with restraint, confiscation, and receivership.

## **13 Disagreements about case handling**

- 13.1 Where disagreements arise, these should be handled locally between police officers and CPS staff handling the case. Where disagreement persists, line managers should be involved. If issues remain unresolved after the involvement of the Trial Unit Head and a senior police officer, the matter will be considered by the Chief Crown Prosecutor, for the CPS and the Chief Constable, for the Police Force.

## **14 Data collection**

- 14.1 The Assets Recovery Strategy requires Agencies to collect data to inform targets for increasing the use of financial investigation and the value of orders made and enforced.
- 14.2 The CPS and ACPO will ask Chief Crown Prosecutors and Chief Constables to ensure that data is shared locally to assist with planning and the measurement of performance.

## **15 Liaison**

- 15.1 This document can be subject to change with the agreement of the parties.
- 15.2 This document will be reviewed after twelve months from the date beneath.

## **SECTION B**

### **Signatories**

**Signed on behalf of the Crown Prosecution Service**

---

**Sir David Calvert Smith, Q.C., Director of Public Prosecutions.**

**Signed on behalf of ACPO**

---

**James Hart, Q.P.M., Commissioner of Police for the City of London.**

## **CONTACT POINTS**

### **CROWN PROSECUTION SERVICE**

Mark Bowring  
Project Manager  
Headquarters  
50 Ludgate Hill  
London EC4M 7EX

Tel: 020 7796 8020  
Fax: 020 7796 8335  
Email: Mark.Bowring@cps.gsi.gov.uk

### **ACPO**

DCI Kevin Moore  
(Staff Officer for Mr. James Hart)  
City of London Police  
Fraud Squad  
Wood Street Police Station  
37 Wood Street  
London EC2P 2NQ

Tel: 020 7601 2580  
Fax: 020 7601 2560  
Email: Kevin.Moore@city-of-london.police.uk