



**CPS**

# **CPS Asset Recovery Strategy**

**June 2014**

# CPS Asset Recovery Strategy

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## Introduction

The CPS Asset Recovery strategy is to:

- Prioritise the recovery of assets from serious and organised crime and serious economic crime.
- Pursue the assets of all who profit from crime, when it is proper to do so.
- Assist our international colleagues to enforce assets on our behalf and where necessary to do this assist them in developing their asset recovery capacity and capability.
- Improve the enforcement of confiscation orders.

The Proceeds of Crime Act 2002 (POCA) has transformed the CJS response to the proceeds of crime. Before the Act, criminal justice agencies collectively recovered about £25 million a year in criminal assets<sup>1</sup>. Now they regularly recover over £150 million a year. POCA allows the use of tools such as confiscation, cash forfeiture, civil recovery, and criminal taxation in order to<sup>2</sup>:

- Deprive offenders of the proceeds of their criminal conduct;
- Deter the commission of further offences; and
- Reduce the profits available to fund further criminal enterprises.

The CPS asset recovery strategy assesses which assets we should target and how. It describes how we will re-organise our structures to improve the performance of both routine and specialist asset recovery work. It puts in place a plan to recover assets that are hidden around the world. And it explains what we intend to do with the assets we recover.

The strategy will be delivered by the new **CPS Proceeds of Crime service**, comprising of three Central Units based in CPS Headquarters and nine Regional Teams. The new service will focus on six priority areas of work, and its success will be measured against new performance metrics, designed to ensure robust governance.

The CPS strategy supports the Government's Serious and Organised Crime Strategy, published by the Home Office, which aims "to substantially reduce the level of organised crime in this country and the level of serious crime that requires a national response (notably fraud and child sexual exploitation)"<sup>3</sup>. In particular, its strategy on asset recovery aims to: amend asset recovery powers; ensure enforcement of court orders; achieve better recovery of assets hidden overseas; and implement new money laundering regulations<sup>4</sup>.

In all cases where prosecutors are considering instigating confiscation proceedings, they will apply the principles set out in the DPP's "Guidance for Prosecutors on the Discretion to Instigate Confiscation Proceedings"<sup>5</sup>.

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<sup>1</sup>[Criminal Justice Joint Inspection Joint Thematic Review of Asset Recovery, 2010](#) (Joint Thematic Review), paragraph 4.2: in 2001-02 £25 was recovered.

<sup>2</sup> See [R v Rezvi \[2002\] UKHL 1](#) and [R v Waya \[2012\] UKSC 51](#).

<sup>3</sup> The government's Serious and Organise Crime Strategy October 2013, paragraph 3.1.

<sup>4</sup> The government's Serious and Organise Crime Strategy October 2013, paragraphs 4.45-4.57.

<sup>5</sup>[Guidance for prosecutors on the discretion to instigate confiscation proceedings](#)

## The CPS strategy

The aim of this strategy is for the CPS to recover more criminal assets, located both in the UK and overseas. The CPS will prioritise the recovery of assets from serious organised crime and serious economic crime, whilst pursuing the assets of all who profit from crime. Criminal profits are the life-blood of organised crime and professional fraudsters as these profits are often reinvested in further criminal activities. By taking away the profits that fund crime, we can help to disrupt the cycle that sustains these organisations and fraudsters. By prioritising the assets of organised and economic crime, the strategy aims to improve further on our asset recovery performance, and to disrupt, deter and reduce organised crime and economic crime. This will help to protect the public from the harm it causes.

To implement the strategy, the CPS is creating a new national CPS Proceeds of Crime service, which will focus on eight priority work areas. We will also introduce a more robust performance, assurance and governance regime.

One of the CPS's priorities is the service we provide to victims. Serious and organised crime and serious economic crime often do not have an identifiable victim. However, these are not victimless crimes. Sometimes the victim is the public purse, or the public itself: for instance, there is better recognition now that money stolen in tax and excise fraud cannot be spent on schools, hospitals, fire-fighters, police and other public services.

In some cases, there are identifiable victims, such as the person trafficked, or persons duped by an investment scam, who can ill-afford to lose their hard-earned savings. When appropriate, we shall seek compensation for identified victims.

We recognise that the success of this strategy will, in part, depend upon our close working relationships with law enforcement, CJS and international partners. We shall engage with them to ensure that our strategy is aligned with theirs, in pursuit of our common asset recovery objectives.

Our strategy recognises the need to assist other jurisdictions in their asset recovery work, rather than simply requesting assistance from them. To this end, we shall extend our international footprint by expanding the deployment of specialist asset recovery lawyers overseas.

## CPS priorities

There are eight areas of work central to the implementation of our strategy:

- CJS Engagement
- Confiscation
- Enforcement
- International
- Money Laundering
- Civil Recovery
- Create a New National Organisation
- Using Recovered Assets

## CJS ENGAGEMENT

### ***Engage with CJS and law enforcement partners to promote asset recovery***

The CPS recognises the need for CJS agencies to work together, and towards common goals, if we are to make significant improvements in asset recovery<sup>6</sup>.

We shall engage with our CJS and law enforcement partners to promote the CPS asset recovery strategy, which is aligned with the work of other agencies. In doing so, we aim to contribute to the development of a wider CJS overarching strategy on the proceeds of crime.

The Criminal Finances Board, chaired by a Home Office minister, oversees a programme of cross-departmental work on asset recovery. The CPS is represented on the Board. We are committed to assisting in the implementation of the Board's Criminal Finances Improvement Programme, which is aimed at improving CJS asset recovery performance, in accordance with the government's serious and organised crime strategy. We will work with the Home Office, which is responsible for the domestic proceeds of crime legislation, and other agencies represented on the board to identify ways in which asset recovery legislation can be improved and to make the case for legislative change where we think it is necessary.

The CPS enjoys close working relationships with law enforcement agencies, such as the police, HMRC and the National Crime Agency (NCA). We wish to strengthen these relationships, and to explore new approaches to asset recovery.

When deciding whether to carry out a financial investigation or to bring confiscation proceedings, an important factor to consider is whether confiscation is a proportionate response with regard to the circumstances of the case and the cost and resources involved. The CPS will work with the College of Policing, ACPO, the NCA, HMRC, DWP, the Department of Health and DEFRA to develop confiscation case typologies. These will inform our assessment of whether to seek a confiscation order on individual cases. This will ensure that our resources are targeted efficiently and in line with our strategy. We shall encourage our law enforcement partners to adopt a similar approach.

We shall provide advice on early financial investigations, including full financial profiles of individual suspects. A restraint application may be made at any time following the commencement of the criminal investigation and at any stage of the criminal proceedings. Standard Operating Practices will ensure that we monitor the need for restraint throughout the investigation and criminal proceedings and if there is a risk of dissipation of the defendant's assets, trained specialists within CPS Proceeds of Crime will work with law enforcement to make timely restraint applications in accordance with updated Service Level Agreements with our law enforcement partners<sup>7</sup>. This will include joint working with international colleagues, when assets are located abroad or evidence is required from another jurisdiction. We shall also advise on alternatives to prosecution, such as civil recovery, where prosecution is not the most appropriate solution to ensure that criminals do not retain high value criminal assets.

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<sup>6</sup> The National Audit Office report "[Confiscation Orders](#)", 17 December 2013 (NAO report), recommends strategic coherence across government: recommendation (a).

<sup>7</sup> Joint Thematic Review p11, issue to address number 9; the NAO report states that action is not being taken early enough to prevent offenders hiding or disposing of assets: paragraph 3.6.

## CONFISCATION

### *Mainstream confiscation and improve the quality of this work*

Confiscation orders represent perhaps the best opportunity to deprive criminals of assets as, subject to certain qualifying criteria being satisfied, an order can extend to assets other than those relating to the offence for which the person is convicted. Confiscation orders currently account for 69 per cent of all criminal assets recovered under POCA powers<sup>8</sup>.

CPS prosecutors participate in every stage of the confiscation process, in that they:

- Advise on the obtaining of a restraint order and conduct restraint applications.
- Advise on the confiscation investigation.
- Conduct confiscation proceedings in court.
- Obtain receivership orders.
- Recover assets to satisfy a confiscation order by way of enforcement action in the UK and overseas.

The total amount of assets recovered across the CJS in 2012-13 was £152.2 million<sup>9</sup>. This figure combines money recovered from confiscation, cash forfeiture, civil recovery, criminal taxation, and international asset sharing. The money recovered under confiscation orders alone was £105.4 million<sup>10</sup>.

A large proportion of these recovered assets relate to confiscation orders in CPS cases. The CPS recovered £90 million<sup>11</sup> from confiscation orders in 2012-13. This means that currently the CPS is responsible for almost 90% of CJS recovery on confiscation orders, and for almost two thirds of all CJS asset recovery. In future cases we will also seek to avoid unrealistic confiscation orders by working closely with investigators to make the most precise calculation of the benefit and recoverable amount that a court will find<sup>12</sup>. This will include the early identification of assets and a reliable assessment of their value, taking into account any third party claims to ownership.

Given the importance of confiscation work to both the CJS and the CPS, most CPS confiscation work will continue to be mainstreamed across the Service. Although high value and complex confiscation work will be delivered by specialist asset recovery prosecutors in the Central CPS Unit, other confiscation work will be integral to the work of Regional and Area prosecutors.

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<sup>8</sup> Based on the Joint Asset Recovery Database (JARD) figures, November 2013.

<sup>9</sup> Joint Asset Recovery Database (JARD). The figure is net, after deducting enforcement costs and compensation payments to victims.

<sup>10</sup> JARD.Net figure.

<sup>11</sup> JARD.Net figure.

<sup>12</sup> [R v Waya\[2012\] UKSC 51](#) confirms that Part 2 POCA must be given effect in a manner that is compliant with Article 1 of the First Protocol to the ECHR (peaceful enjoyment of possessions). Accordingly, if the application of the provisions of POCA would lead to the making of a confiscation order in a sum that would be disproportionate, then a judge may make an order in a sum that is proportionate.

We intend to improve the quality of this work, including the decision making of prosecutors throughout the life of a case<sup>13</sup>. We shall do this by incorporating confiscation into two of the CPS priority objectives, which are to provide all staff with the right “tools and skills” for the job they do, and to achieve a consistent high standard in the “quality of our casework”. We will also make CPS Proceeds of Crime Teams and Areas more accountable for confiscation performance.

### ***Develop Standard Operating Practices for confiscation***

Standard operating practices (SOPs) are an important new tool for the CPS. These lay down a consistent way of working across the country, in areas such as case management and progression. All aspects of confiscation work - restraint, confiscation and enforcement - will feature in our SOPs and they will also address other aspects of asset recovery, such as compensation for victims and forfeiture orders. This will ensure that prosecutors and caseworkers are reminded at every relevant stage of a case - advice, charge, court hearings and acceptance of pleas or basis of plea - what needs to be done, what the issues are and what questions they need to consider on asset recovery<sup>14</sup>. A compliance and assurance regime using targeted management checks will help to achieve a consistent way of working.

The CPS is developing a casework hub, an online single repository of all information required to handle a case. A bespoke proceeds of crime section is to be added to the hub, which will give CPS lawyers practical casework assistance and the ability to deal with the issues they face. For instance, prosecutors will have access to template precedents and information on what a section 16 statement should contain, to ensure prosecutors review these statements correctly<sup>15</sup>. The casework hub will also include links to the SOPs and the most up to date legal guidance relevant to asset recovery work.

The casework quality initiative will include a focus on asset recovery work. It will set the required standard from initial advice, through charging and the review of a case. We will review performance against these standards, which will be incorporated in an updated version of our Core Quality Standards: see also section on “CPS measures of success”.

### ***Closely monitor confiscation performance***

Asset recovery performance across the CPS will be more closely monitored as part of the Area Performance Review Framework, with those responsible for performance required to account to the Chief Operating Officer on a quarterly basis. This will allow us to monitor more closely the quality and extent of our confiscation work.

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<sup>13</sup> See the NAO Report, Finding at paragraph 9: insufficient awareness of proceeds of crime within law enforcement and prosecution agencies.

<sup>14</sup> Joint Thematic Review, p11, issue to address number 12.

<sup>15</sup> Joint Thematic Review p11, issue to address number 11.

## ENFORCEMENT

### *Improve the enforcement of confiscation orders*

Since 2009-10 the value of criminal assets that are enforced in respect of CPS obtained confiscation orders has increased from £63 million to £90 million<sup>16</sup>. But there remains a large gap between confiscation orders made and those collected. The ability to effectively enforce confiscation orders depends on the Financial Investigator or receiver's success in locating a defendant's assets.

HMCTS is ultimately responsible for collecting the debt owed by a defendant on a confiscation order. However, the CPS assumes responsibility for cases that require prosecution input in order to enforce effectively. The criteria for determining the lead enforcement agency is set out in the SLA between the CPS and HMCTS. When there is nothing more we can do to enforce the debt, we shall remit the case back to HMCTS.

It is important to stress that the value of a confiscation is not always a true measure of the amount that is actually recoverable. There are many reasons for this. Confiscation orders require defendants to pay a sum of money representing the value of their benefit from criminal conduct. The onus is on the defendant to show that assets are no longer available to pay towards the confiscation order. Defendants are often unable or unwilling to explain what they have done with their proceeds and, as a result, confiscation orders are made in circumstances when there may be few or no identified assets against which enforcement action may be taken. Such orders are known as hidden assets orders, and organised criminals will often have hidden their assets overseas. The available assets may be further reduced by the legitimate claims of third parties.

There are risks in not knowing the true level of enforceable debt: it raises false expectations about the range and value of assets that are actually recoverable; and it obscures the real amounts that we should be pursuing.

We have analysed our debt in detail, to understand it better. We have taken steps to:

- Establish how much existing debt on CPS cases is genuinely recoverable.
- Collect all debt that we assess as recoverable.
- Target high priority cases.
- Identify priority countries for enforcement.

We have further broken down the value of realisable assets into categories: third party assets; hidden assets; and foreign assets. This has given us a clear picture of the size and types of assets that we are dealing with. The information on foreign assets is broken down further to include: the countries in which the assets are held; any current partnership working with those countries; and whether there are specific asset recovery difficulties in these countries. This information informs our strategy for international enforcement: see "International" section. The data has been used to formulate appropriate enforcement plans for all cases.

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<sup>16</sup> JARD database, net figures. The 2009-10 figure does not include RCPO pre 1 January 2010, or DEFRA or DWP orders.



We undertake a regular enforcement data assurance exercise to update this information.

### ***Work across the CJS to enforce high priority cases***

Our “high priority” cases are cases where:

- The debt is collectable; and
- The collectable debt exceeds £500,000; or
- Enforcement will maximise assets removed from serious and organised criminals, in line with the CPS strategy and the Government’s strategy; or
- Where failure to enforce might have an adverse impact on public confidence.

We have agreed a cross-agency approach with HMCTS, the NCA and HMRC. Each lead enforcement agency has identified an enforcement priority case list based on similar criteria. The cross-agency work includes an agreed approach to international enforcement.

All future cases will have enforcement strategies based on this model, and they will be subject to regular reviews and an assurance regime.

We shall develop success measures that are based on this case selection criteria, to link performance to our strategic goals.

The CPS has a National Service Level Agreement (SLA) with HMCTS<sup>17</sup>, which sets out the division of responsibility for enforcement. We will work with HMCTS to review and update the SLA in line with our strategy.

### ***Publish a strategy on the use of receivers***

The strategy will set out clear criteria for when to appoint a management receiver and an enforcement receiver. We shall make use of management receivers where they are required to safeguard and manage assets that may be needed to satisfy a confiscation order. And we shall appoint enforcement receivers post confiscation order, when a defendant will not voluntarily realise his assets. Our use of receivers will be governed by the national procurement framework, to ensure that the expertise of receivers are matched to the requirements of the particular case, and that we obtain value for money from those we appoint.

This approach should ensure that we recover a greater proportion of confiscation debts in future. Our renewed focus on enforcement is aligned with the Government’s aim to tackle the confiscation debt<sup>18</sup>, and complies with the National Audit Office’s recommendations<sup>19</sup>.

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<sup>17</sup> Service Level Agreement between the CPS and HM Courts & Tribunals Service for the Enforcement of Confiscation Orders. Version 3, 2012.

<sup>18</sup> The government’s Serious and Organised Crime Strategy October 2013, paragraphs 4.51-4.52.

<sup>19</sup> The NAO Report, recommendations (a) and (c).

## INTERNATIONAL

### ***Recover more hidden assets overseas***

The CPS is well placed to develop closer collaboration on asset recovery with other jurisdictions based on the success of our Liaison Magistrates and Criminal Justice Advisors, who are stationed in a number of countries in the EU and worldwide. We aim to utilise our Liaison Magistrates and Criminal Justice Advisors to take a more targeted and dynamic approach to the particular challenges of international asset recovery. When we send out a request for Mutual Legal Assistance (MLA), to freeze and realise assets, we will not simply wait for a response but will be proactive in assisting recipient countries to trace assets. When practical or systemic blockages to such joint work occur, we will work with others to remove or reduce them.

This will increase the amount of assets we can recover and other jurisdictions stand to benefit from this approach by way of a share of the assets recovered, whether because of EU Framework Decisions or asset sharing agreements with countries outside the EU.

We intend to increase our capacity to recover assets hidden overseas by:

- Working with UK and international partners to improve our performance on international asset recovery and to improve and develop the international operating environment for the recovery of illicit assets in priority jurisdictions.
- Working with UK and international law enforcement, and with criminal justice partners, financial practitioners and policy makers to:
  - Improve operational performance on international asset recovery at home and abroad, so that assets can be seized and recovered more effectively and swiftly.
  - Improve the operational environment in key priority countries to increase the total of assets recoverable and recovered.

In pursuit of this international strategy, our objectives are:-

- To recover more from current outstanding orders.
- To improve our performance and that of our key partners (at home and abroad) within the legal regime and systems which currently exist (at home and abroad) so that we work as efficiently and as effectively as possible.
- To develop the operational environment at home and in countries of importance to UK international asset recovery so that more assets can be recovered than current conditions permit.

### ***Recover more UK-based assets on behalf of other countries***

Other countries may ask the CPS to restrain assets and to enforce confiscation orders on their behalf under a Mutual Legal Assistance (MLA) request. If we assist, the UK may be entitled to keep the recovered assets, or a proportion of them, if there is a bilateral asset sharing agreement, or international convention or treaty<sup>20</sup>.

Since London is a global centre for finance, there are a large number of criminal proceeds deposited in its financial institutions. Despite this, historically the CPS has not received a high volume of incoming MLA requests for the restraint and recovery of assets. We propose to address this shortfall, and to substantially increase asset recovery for other countries.

For instance, we set up a project whereby the CPS Liaison Magistrate to Italy has worked closely with the Italian authorities and specialist asset recovery prosecutors in London to restrain substantial amounts of assets in the UK on behalf of those authorities. We expect to recover these assets in due course. We aim to build upon this initial success through use of our Liaison Magistrates, Criminal Justice Advisors and Asset Recovery Advisors located overseas. They will ensure that authorities in other jurisdictions are aware of our ability to carry out this work on their behalf, and encourage them to make appropriate MLA requests. If required, they will also provide capacity building and casework assistance.

We shall also work with our key domestic law enforcement and policy partners to ensure a coordinated approach in the UK to the execution of incoming MLA requests.

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<sup>20</sup> If the criminal offences fall under the UN Convention Against Corruption (UNCAC), the proceeds of corruption will be returned to the victim state according to the terms of UNCAC.

## MONEY LAUNDERING

### ***Build capability and train prosecutors to undertake money laundering prosecutions***

The prosecution of money laundering offences, and the subsequent confiscation of assets, removes the profits of organised crime and professional fraudsters, thereby disrupting their criminal activities. The CPS prosecutes money laundering offences when there is sufficient evidence and it is in the public interest to do so.

We shall also advise on money laundering investigations and consider money laundering charges when third parties claim ownership of identified assets in enforcement proceedings, and there is a suspicion that the third parties are themselves involved in criminal behaviour.

Money laundering prosecutions may include seized assets that are also subject to civil cash forfeiture proceedings. When this happens, there are a number of risks: if cash forfeiture is prioritised over confiscation, the potential for greater returns from confiscation may be lost, and criminals may retain more of their assets; a cash forfeiture hearing may prejudice a criminal trial; and the existence of two separate court processes may be an inefficient use of resources<sup>21</sup>. To reduce risks in such linked cases, the CPS prosecutor will initiate early discussions with the investigator, to agree an appropriate case specific strategic approach. If the seized assets are to be preserved for potential confiscation proceedings, the civil proceedings should be adjourned.

Following some cash seizures, law enforcement will simply bring civil cash forfeiture proceedings without any criminal investigation. Although criminals will lose their cash, they will not be prosecuted and subject to a criminal sentence, and they will not face the risk of losing criminal assets derived from their criminal lifestyle. We intend to review with law enforcement colleagues the benefits to be derived from pursuing a greater proportion of criminal investigations and prosecutions following cash seizures.

### ***Building Capability***

CPS Proceeds of Crime will work in partnership with the Complex Casework Units and the Central Casework Divisions to provide advice on money laundering prosecutions. The creation of nine new teams linked to Police Regional Asset Recovery Teams will ensure we have capability to support this work across England and Wales.

### ***Training Prosecutors***

We will introduce newly developed core learning packages for all prosecutors on proceeds of crime legislation including money laundering.

We will provide focused training for prosecutors in CPS Proceeds of Crime to enhance their existing knowledge and expertise.

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<sup>21</sup> See Joint Thematic Review p12, issue to address number 21: the prosecution team should consider the possible divisive effects of policies on cash seizures.

## CIVIL RECOVERY

### ***Bring more civil recovery cases***

Those committing organised crime and economic crime are careful not only to hide their assets but also their involvement in offences. If a criminal prosecution is not feasible, civil recovery may present an opportunity to deprive criminals of their profits. Civil recovery can also be used when a conviction is obtained but a confiscation order is not made, or when the public interest is better served by using a civil rather than a criminal disposal. It is therefore potentially a powerful tool to be used against organised and economic crime.

For instance, we can use civil recovery when:

- The criminality took place overseas and we cannot prosecute the case in our courts.
- We have identified criminal assets but we cannot link them to any individual.
- There is simply insufficient evidence to bring criminal proceedings.

To date the CPS has obtained two civil recovery orders, and is currently conducting a number of on-going civil recovery investigations. We also have a project with law enforcement to explore ways to bring far more civil recovery cases. We shall review the success of this project at its conclusion and consider whether to embed the use of civil recovery powers into our long-term asset recovery strategy.

To ensure that we only use civil recovery where it is proper to do so, our prosecutors will, in all cases, apply the Attorney General's Guidance on Asset Recovery Powers for Prosecutors<sup>22</sup> when considering the public interest in using non-conviction based powers.

To mitigate the risk of substantial costs being awarded against the CPS in the event of an unsuccessful application, the DPP will personally approve the commencement of all civil recovery actions and proceedings will only be conducted by prosecutors in the CPS Proceeds of Crime Civil Recovery Unit. We shall also seek agreement with law enforcement agencies on funding CPS civil recovery work so as to share the risks involved in litigation.

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<sup>22</sup>[Attorney General's Guidance on Asset Recovery Powers for Prosecutors.](#)

## CREATE A NEW NATIONAL CPS PROCEEDS OF CRIME SERVICE

### ***Create a national approach to asset recovery with a strong centre and enhanced regional focus***

To support our asset recovery strategy we are reorganising the way we work. We shall create a national CPS Proceeds of Crime service. Our area work will be delivered through three Central Units based in CPS Headquarters and nine Regional teams, co-located with the RARTs wherever possible. These proceeds of crime teams will be staffed by lawyers and case workers with experience and expertise in asset recovery.

The Central Units will carry out restraint, confiscation, and enforcement work on cases that meet defined criteria - broadly, high value and complex cases. The work will be split between two teams: Pre-enforcement and Enforcement.

The Regional teams will specialise in restraint and enforcement work. This will ensure that every CPS case that requires in-house restraint or enforcement work will be handled by a dedicated proceeds of crime team. The teams will also carry out some confiscation work when there is a restraint order in place.

Mainstream confiscation work will remain within prosecuting teams in the Areas, as confiscation is an integral part of the prosecution process, and Area prosecutors will have the requisite skills and knowledge to carry out this work<sup>23</sup>.

### ***Establish clear lines of responsibility for asset recovery work together with effective assurance and governance regimes***

CPS Proceeds of Crime will be led by the Head of Proceeds of Crime, who will be a Chief Crown Prosecutor. This newly created role will be high profile and the post-holder will be expected to lead the agenda on asset recovery issues in the CJS, and to promote the CPS asset recovery strategy both nationally and internationally. The Head of Proceeds of Crime will report directly to the Chief Operating Officer. Each Regional team will be accountable to the Head of Proceeds of Crime. We will establish a ring-fenced resourcing model for CPS Proceeds of Crime, to ensure sufficient resources for asset recovery work nationwide.

We shall also create national information management systems that will provide us with prompt and accurate management data. This data will then be used to identify and address any operational or performance issues quickly. We will carry out local and national quality assurance checks of systems, processes, casework and management data. A quarterly performance review process will provide continuous assessment of the work of CPS Proceeds of Crime and Areas. The assessment will capture all aspects of proceeds of crime activity.

### ***Improve and standardise our systems, processes and practices in respect of restraint, confiscation and enforcement***

We are creating standard operating procedures for restraint, confiscation and enforcement activity to ensure that the work is performed, managed and controlled effectively. Guidance, training and support will be given to all staff handling proceeds of crime cases. This will include

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<sup>23</sup> Although confiscation cases in which there are complex restraint proceedings may be dealt with by the Hubs.

training on the use of JARD. A communication strategy will be put in place to ensure that we share lessons learnt and continually develop best practice.

We shall establish a “link lawyer system” between CPS Proceeds of Crime and Areas.

### ***Work more productively with law enforcement agencies and HMCTS***

Our prosecutors will build closer relationships with the Financial Investigation Units (FIUs) of local police forces across the country.

CPS lawyers are co-located in each of the nine multi-agency RARTs, made up of police and CPS members. RARTs provide specialist financial investigation skills to conduct complex confiscation and money laundering investigations. Their aim is to disrupt serious and organised crime, and their work is targeted at criminals who pose the greatest threat. The work of RARTs furthers the objectives of the CPS asset recovery strategy, and we shall continue to provide RARTs with experienced, dedicated staff. We shall also ensure that the Regional teams and local CPS Areas have a clearly defined relationship with the RARTs. To achieve this, we will agree a Memorandum of Understanding with each of the RARTs.

### ***Measure and report on our performance***

The CPS delivers a public service in accordance with a set of publically facing Core Quality Standards (CQS)<sup>24</sup>. These lay down the quality of service that the public is entitled to expect from those who prosecute on its behalf and include a standard on asset recovery work. The CQS are currently being reviewed.

The CQS are supported by published service delivery measures that set the performance expected in respect of each standard. Currently, the asset recovery measures provide quarterly data on the volume of restraint orders, the volume and value of confiscation orders, and the value of assets recovered. We intend to publish this data on the CPS website and report on our performance in the CPS Annual Report.

We recognise that to make further improvements in asset recovery, we shall need to develop a more comprehensive and refined set of measures<sup>25</sup>. We will develop new measures during 2014/15.

### ***Ensure our prosecutors have the skills for the job***

The CPS is going to introduce a Legal Development Programme (LDP) for all prosecutors and caseworkers. Specific to the design of the Programme will be training for asset recovery.

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<sup>24</sup>[CPS Core Quality Standards](#)

<sup>25</sup> The NAO report recommends that agencies define clear objectives and success measures, and develop more sophisticated performance data: recommendations a and c.

## USING RECOVERED ASSETS

### ***Reinvest all monies recovered under ARIS in further recovery work***

The CPS participates in the Asset Recovery Incentivisation Scheme (ARIS), whereby we and other agencies receive a proportion of the assets we recover to help fund our work. Under the ARIS arrangements, the Home Office receives 50% of confiscated assets, the relevant law enforcement authority and the prosecutor will each receive 18.75%, and HMCTS receives 12.5%. In cash forfeiture, civil recovery and criminal taxation cases, the Home Office and the applicant agency each receive 50% of the sum recovered.

If we are to build upon the successes of our asset recovery work to date, it is essential that we maintain this funding stream.

To maintain public confidence and to make further improvements in our asset recovery performance, we shall reinvest all monies received under ARIS in further asset recovery work<sup>26</sup>. The aim of this reinvestment is not to benefit the CPS or its prosecutors but to deprive more criminals of their profits. This in turn will disrupt more criminal organisations, and deter and reduce crime, in line with our broader strategy on asset recovery. The DPP will publish detailed guidance on the use that can be made of ARIS funding.

### ***Take a principle-based approach to asset recovery***

The CPS is mindful that the ARIS scheme could be seen as an incentive for the CPS to pursue criminal's assets inappropriately, due to the potential benefits that accrue to the Service. Our strategy seeks to ensure that this will not occur by only bringing confiscation proceedings when it is a proper and proportionate response. We recognise that we must take a principled based approach to confiscation, in line with the purpose of proceeds of crime legislation, which is to:

- Deprive offenders of the proceeds of their criminal conduct;
- Deter the commission of further offences; and
- Reduce the profits available to fund further criminal enterprises.

Accordingly, in all cases where we are considering whether to bring confiscation proceedings we shall apply the principles set out in the DPP's "Guidance for Prosecutors on the Discretion to Instigate Confiscation Proceedings"<sup>27</sup>. The guidance provides examples of when it may be inappropriate for prosecutors to decide to instigate confiscation proceedings.

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<sup>26</sup> Joint Thematic Review p12, issue to address number 22: the CPS and others should consider ring-fencing ARIS funds, so that they are ploughed back into the same work.

<sup>27</sup> [Guidance for prosecutors on the discretion to instigate confiscation proceedings](#).



Crown Prosecution Service  
Rose Court  
2 Southwark Bridge  
London SE1 9HS

[www.cps.gov.uk](http://www.cps.gov.uk)