



National Audit Office

The Assets Recovery Agency

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The Assets Recovery Agency

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EXECUTIVE SUMMARY

1 The Assets Recovery Agency (the Agency) was created in February 2003 under the Proceeds of Crime Act 2002 to take the profit out of crime. It aimed to put an end to the “champagne lifestyle” that many criminals were perceived to enjoy, as well as to reduce the seed money available for further criminal activity. It seeks to disrupt crime at all levels, where assets can be linked to crime, using its powers of criminal confiscation, taxation or, uniquely, civil recovery.¹ It is unable to instigate enquiries and is reliant on referrals from other agencies. The Agency also has a statutory duty to promote the use of financial investigation to recover assets, both within and outside the Agency, through training, accrediting and monitoring the performance of

Financial Investigators working within the Agency and in police forces, HM Revenue and Customs and other law enforcement and prosecuting authorities.

2 Since it was set up, the Agency has met its targets for training Financial Investigators and for disrupting criminality. It has not, however, met its targets for the recovery of assets, including that of becoming self-financing by 2005-06, a target that the Agency is now aiming to meet by 2009-10. This report examines the reasons for the Agency’s difficulties in meeting these targets, as well as its performance in training and monitoring Financial Investigators, and makes recommendations for developing its relationships with its key partner bodies and improving its internal processes.

¹ Criminal confiscation can be used to recover assets from a convicted criminal, up to the value of the benefit of the crime. Civil recovery allows the recovery of specific assets that are, or represent, the proceeds of crime, if the crime can be shown to have occurred on the balance of probabilities. Criminal income, gain or profit can be taxed if it cannot be shown to have come from legitimate sources.

Overall conclusions on value for money

3 The Agency was created to deal with a new and often complex area of activity but no feasibility study was carried out to assess its likely performance or devise appropriate targets. Since it became operational, it has devoted much of its efforts to recruiting staff, developing systems, building relationships with referring agencies and testing the law on civil recovery and taxation. During this period, the Agency has established important case law in respect of the Human Rights Act 1998, which should deter further challenges to its powers of civil recovery. In addition, it has been successful in freezing assets and issuing tax assessments and has effectively delivered training courses, for which it has received positive feedback from attendees, although it has not effectively monitored the Continuing Professional Development of Financial Investigators. In respect of the recovery of assets, the Agency has collected £23 million against cumulative costs of £65 million.

4 Problems in recovering assets have been due to poor quality referrals – particularly in the early days; defence representations, including a few cases relating to the Human Rights Act 1998; and weaknesses in the Agency's internal processes. The Agency needs to address these weaknesses, both in its assets recovery role and in its monitoring of Financial Investigators' Continuing Professional Development, if it is to achieve value for money:

- Despite efforts by the Agency to encourage bodies to refer cases, four police forces and most local authorities and Trading Standards Offices have yet to refer cases to the Agency. Relationships with referring bodies are largely based on personal contact and there is some confusion about the role of the Agency among the Councils and Trading Standards Offices that have not referred cases.
- The Agency's case management information is poor. It does not have a single central database of cases and staff refer to different databases that hold contradictory and incomplete information. We had great difficulty in compiling a comprehensive list of cases and tracking their value and progress.
- Since it was set up, the Agency has experienced a high turnover of staff. In the year to the end of September 2006 almost a quarter of the Agency's staff had left, including almost half the legal staff, and over 40 per cent of training and development personnel.



- Staff do not record their time and therefore the Agency cannot measure the resources deployed on each case. There is no effective case management and no consistent use of targets and deadlines to incentivise staff to progress cases.
- In some cases the Courts appoint receivers to manage restrained assets. Receivers' fees, which are paid by the Agency, are expected to total £16.4 million by the end of 2006-07. In twelve of the seventy nine cases managed by receivers, the value of the fees is expected to exceed the assets managed by the end of March 2008.
- In a significant proportion of cases, the training provided, and in the case of the police, funded by the Agency is not fully utilised by Financial Investigators' employing organisations; at least 30 per cent of Financial Investigators retired or moved on from financial investigation shortly after completing their training. Although the Agency requires trained Financial Investigators to complete formal Continuing Professional Development activities, it is not effectively monitoring their performance as required under the Proceeds of Crime Act 2002.
- The Agency's revised expectation that it will break even by 2009-10 cannot be supported by financial modelling given the relatively short period of operation and the irregular flow of receipts, which preclude the modelling of a reliable trend. On current performance, therefore, there is a risk that the Agency will not achieve self-financing by that date.

Recommendations

On 11 January 2007 the Home Secretary announced that the asset recovery functions of the Assets Recovery Agency would, subject to parliamentary approval, transfer to the Serious Organised Crime Agency, and the training functions would transfer to the new National Policing Improvement Agency, with effect from April 2008 at the earliest. Our recommendations will apply equally to the new bodies responsible for the Agency's current functions.

- a** All the Agency's Memoranda of Understanding with referral partners should name a single point of contact within both the Agency and the referral partner. This would help to develop and improve relationship management with referral partners, including providing a framework to allow formal feedback to improve the quality of referrals.
- b** The Agency should, as a matter of urgency, develop a Case Management System that contains all relevant management information and includes a time recording system to monitor the use of staff resources. Once this is established, the Agency should use the data collected to help inform case selection and prioritisation and to review its performance measurement regime so that it incorporates targets that are measurable, challenging and achievable, such as reducing the cost and time per case. This will also help with a smooth transfer of case work to the Serious Organised Crime Agency.
- c** The Agency should develop its formal management review of cases to incorporate a timetable for each stage in the progression of a case, to which Senior Financial Investigators, Financial Investigators and lawyers are held accountable.
- d** The Agency should compare regularly the standard rates charged by receivers to identify those that provide the best value for money and monitor the hours billed to determine the reasonableness of the claim.
- e** The Agency should provide an incentive to police forces, to send only those individuals on the Agency's training courses that are likely to continue to use their financial investigation skills, by putting into practice its intention to extend charging for courses to cover police forces, as well as other sponsoring bodies.
- f** In order to fulfil its statutory role of monitoring the accreditation of Financial Investigators, the Agency should update its database, follow up individuals who have not complied with professional development requirements and, if necessary, remove their accreditation. It should also include targets for monitoring accreditation in its performance measurement regime.

PART ONE

Introduction

The Assets Recovery Agency has unique powers to recover assets obtained by criminal activity

1.1 The Assets Recovery Agency (the Agency) was set up under the Proceeds of Crime Act 2002, which built on previous asset recovery legislation, including the Drug Trafficking Act 1994 and the Criminal Justice Act 1988, to take the profit out of crime. The Agency differs from other organisations in that it has unique powers to recover assets through civil proceedings in the High Court. The Agency was created as part of the government's policy to increase public confidence in the criminal justice system by recovering assets that had been acquired illegally, particularly where those responsible had escaped conviction. At the time it was set up, the then Home Secretary said, "It is coming after the homes, yachts, mansions and luxury cars of the crime barons".² Its powers apply to the proceeds of all levels of crime, ranging from housing benefit fraud to murder. The Agency publicises its successes on its website with the aim of deterring others from committing similar crimes; a selection of these cases is included at Appendix 1. Criminal confiscation and cash seizures by other organisations made up over 93 per cent of assets recovered in 2005-06.³

1.2 As shown in **Figure 1 overleaf**, the Agency has three possible means by which it can recover assets: criminal confiscation, civil recovery or taxation. Legislation in the United Kingdom requires criminal conviction and

confiscation to be pursued, or at least considered, in the first instance, because, although the burden of proof is higher, the sanction, including the amount which can be recovered, is potentially greater. Civil and/or tax proceedings can be considered only where this does not succeed. The Agency is unique in its powers to recover assets in civil proceedings in the High Court. The process for recovering assets by these three possible options is illustrated in **Figure 2 on page 9** and described in greater detail in Appendix 2.

Cases are referred to the Agency by its referral partners

1.3 The Agency has no powers to instigate investigations. Instead, cases must be referred to it, for example, by law enforcement agencies and prosecuting authorities. Any one of some 700 organisations that have the power to prosecute can, in theory, seek criminal Confiscation Orders, either with or without the help of the Agency, and refer cases for civil recovery or taxation to the Agency. These include the 44 Police Forces in England, Wales and Northern Ireland, HM Revenue & Customs, the Department for Work and Pensions, the Crown Prosecution Service, the Serious Organised Crime Agency, 170 Trading Standards Offices and 467 local authorities. In practice, many of the smaller local authorities and Trading Standards Offices will not have the capacity to prosecute individuals and will therefore not be in a position to refer cases to the Agency.

² *Taking the Profits Out of Crime*: Press Notice issued by the Home Office 24 February 2003, reference 67038.

³ Based on total assets recovered in 2005-06 of £96 million www.homeoffice.gov.uk.

1 The hierarchy of asset recovery

| Route | Burden of proof required | Criteria |
|---|---|--|
| <p>Criminal Confiscation</p> <p>The Agency and other law enforcement agencies can seek an Order from the courts to confiscate assets to the value of the lower of the benefit of the crime or the available assets. The Order may be revised subsequently up to the value of the benefit, if more assets become available.</p> | Criminal conviction | <p>Defendant must have assets available for confiscation.</p> <p>The confiscation hearing, which is based on the civil standard of proof, must be held within two years of the conviction, where the crime was committed after the Proceeds of Crime Act 2002 came into force.</p> |
| <p>Civil Recovery</p> <p>The Agency uniquely can use civil proceedings in the High Court to recover assets if criminal confiscation is not possible.</p> | The Agency must be able to prove on the balance of probabilities, i.e. to the civil standard of proof, that there is evidence of criminality. | <p>Specified assets must be, or represent, property obtained through unlawful conduct.</p> <p>The assets must have been acquired in the last 12 years and have a value of over £10,000.</p> |
| <p>Taxation</p> <p>The Agency can tax any income, gain or profit that cannot be shown to be from legitimate sources if criminal confiscation is not possible.</p> | The burden of proof is on the taxpayer to show that any income, gain or profit is from legitimate sources. | Reasonable grounds to suspect that there is income, gain or profit from criminal conduct that is chargeable to tax. |

Source: National Audit Office

The Agency estimates that its expenditure in 2006-07 will be some £26 million

1.4 Total expenditure⁴ in 2005-06 amounted to £23.6⁵ million and is estimated at £26.6 million for 2006-07. The Home Office created an incentivisation scheme, the Recovered Assets Incentivisation Fund (RAIF), to encourage the appropriate agencies to recover assets. The Assets Recovery Agency receives part of its funding each year from this scheme. The Agency employs over 200 staff in London and Belfast; the organisational structure and staff numbers are shown in **Figure 3 on page 10**. The Agency is staffed by a mixture of permanent, temporary and seconded staff, many of whom previously worked in police forces and HM Revenue and Customs.

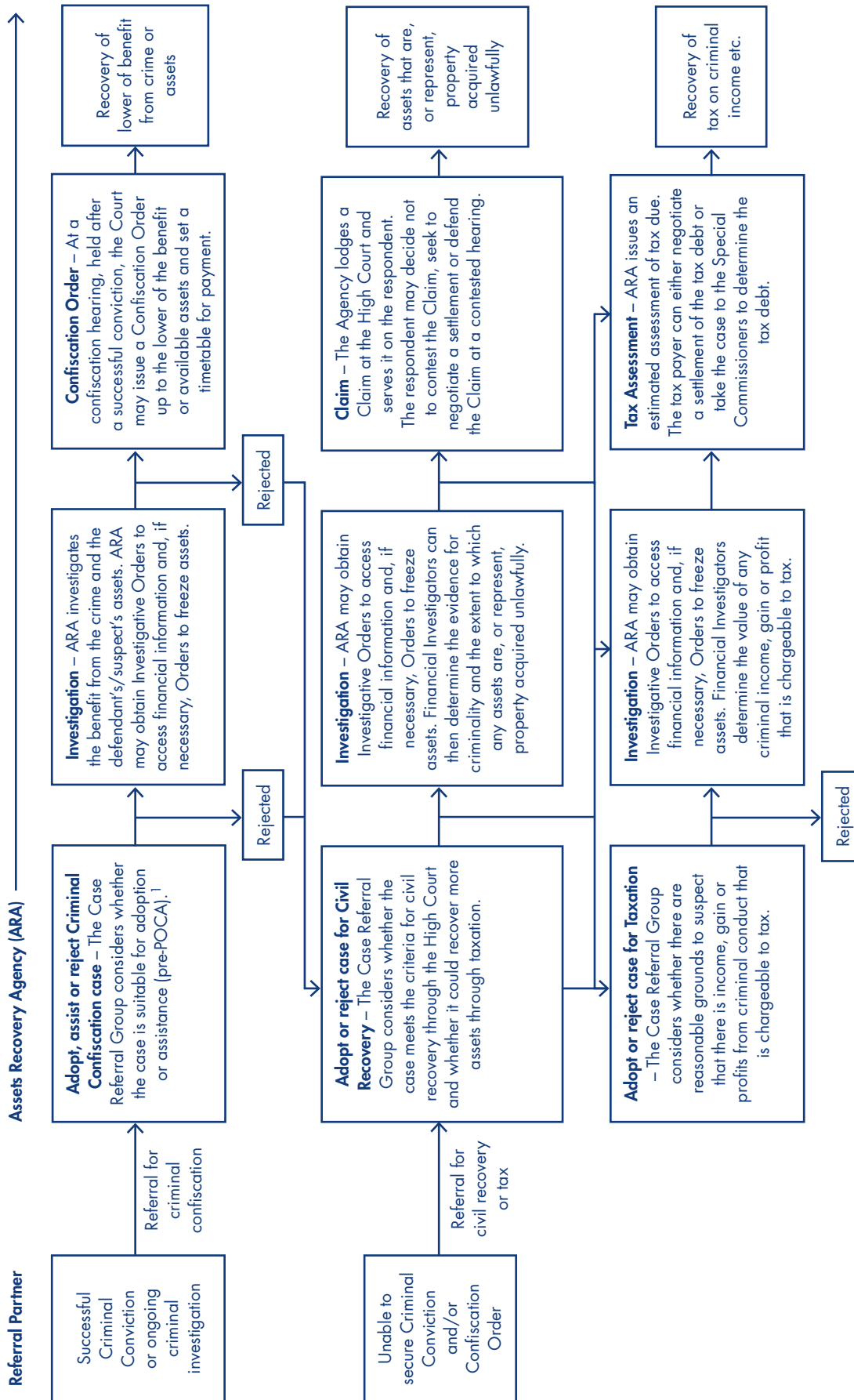
The Assets Recovery Agency monitors its performance through a number of targets

1.5 When the Agency was set up in February 2003, it set itself a number of targets for the disruption of criminal activity, the recovery of criminal assets, the training of Financial Investigators and gaining public confidence in how it uses its powers. Because of the newness of its operations, however, it was not always able to accurately gauge the length of time needed to achieve some of these, and a number of targets were subsequently revised. At Appendix 3 we summarise the Agency's performance against its annual targets and the changes to the targets over time. Below we consider its performance against some of its key objectives.

⁴ Since July 2005 the Agency has been allowed to net off some of the receipts and income from the Recovered Assets Incentivisation Fund against expenditure in order to meet its funding limits set through Parliamentary Estimates. After netting off this income the net expenditure was £16.5 million in 2005-06 and is estimated at £15.5 million for 2006-07.

⁵ In 2005-06 the Agency spent £7.5 million on staff costs; £6.9 million on receivers; £2.2 million on operating leases; £1.4 million on forensic and other financial investigation costs; £1 million on other specialist fees; £1 million on IT and communications; £0.7 million on Recovered Assets Incentivisation Fund (RAIF) communications; £0.7 million on staff training; £0.5 million on travel and subsistence and £1.7 million on other costs.

2 The Assets Recovery Agency can recover assets by means of criminal confiscation, civil recovery or taxation



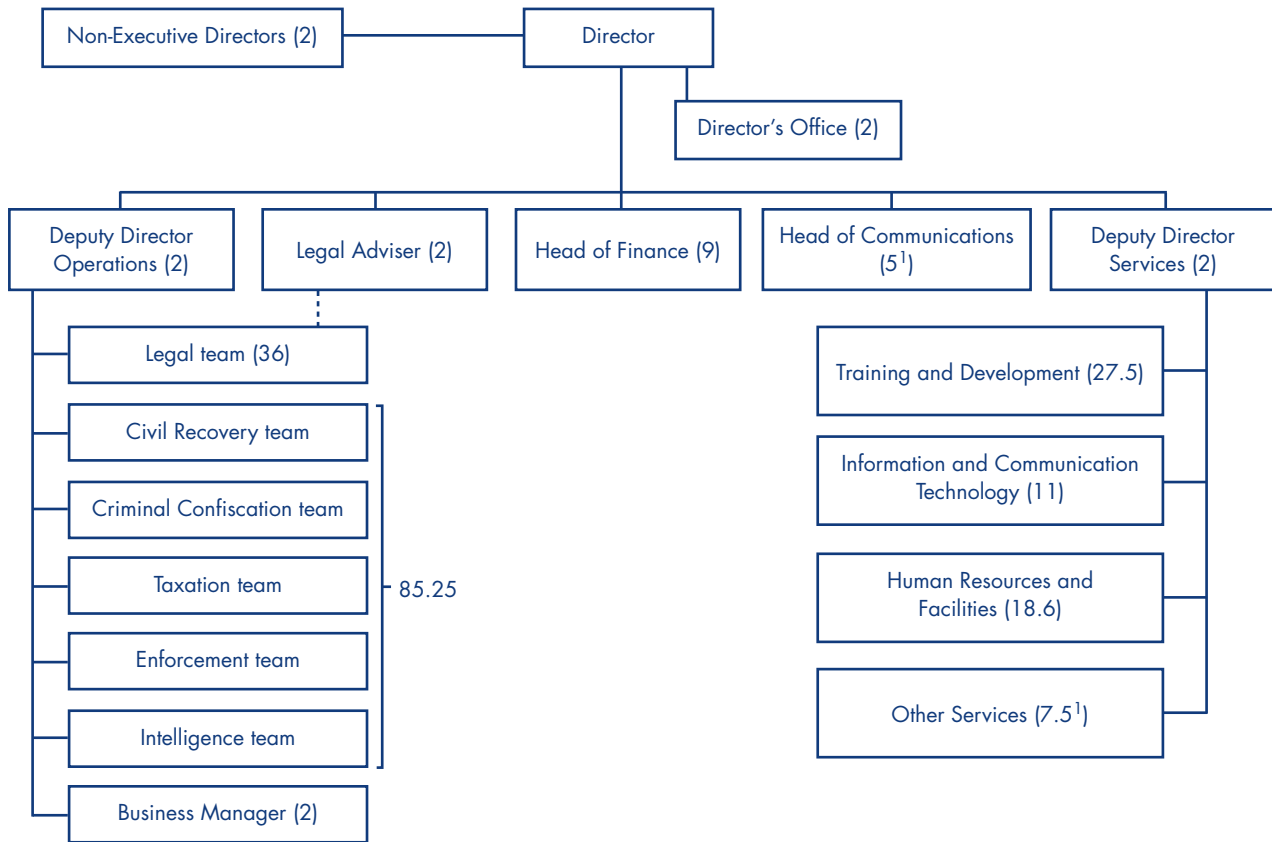
Source: National Audit Office

NOTES

1 The Agency cannot adopt cases where the criminal activity was committed before the Proceeds of Crime Act 2002 came into force. In these cases it assists the referral partner with the criminal confiscation proceedings.

3 The organisational structure and staffing of the Assets Recovery Agency

Staff numbers: Staff complement of 212.85 at 28 September 2006.



Source: Assets Recovery Agency

NOTE

1 5.2 posts funded by the Recovered Assets Incentivisation Fund.

The Agency has exceeded its targets for disrupting organised criminal activities and training Financial Investigators and partially met its targets for maintaining public confidence

1.6 In order to measure performance in the earlier stages of case progression, the Agency sets itself key targets for the disruption of criminal enterprises. Performance is measured by the number and value of, for example, freezing orders, Recovery Orders (if freezing has not taken place), tax assessments, voluntary settlements, undertakings not to deal with assets, or Confiscation Orders. In 2005-06, the Agency aimed to disrupt 70 organisations by early restraint of assets, and other means, to a value of £25 million. In practice, it exceeded its target by enforcing 87 such restraints, affecting a total of £81.5 million assets. The number of disruptions does not, however, equate to the number of criminal activities disrupted as more than one individual may be the subject of an Order in relation to the same criminal

organisation. Also, although “frozen” assets are no longer available to be used freely by the respondent, they may be accessed by respondents to finance legal expenses and living costs, if they have no other means to cover them.

1.7 In addition, the Agency sets itself targets for the provision of training courses. In 2005-06 it delivered 117 such courses against a target of 80 and funded 119 training places against a target of 65, due to an underspend on this activity in previous years. The Agency conducts surveys of the public to establish whether respondents believe the Agency should have its current powers and also whether the Agency might abuse them. It sets targets to improve its approval ratings each year; in 2005-06 it failed to increase the number of respondents that agreed that the Agency should have its powers, but it met its target to reduce by two per cent the number of respondents who thought that the Agency might abuse them.

The Agency is not achieving its targets for financial recovery

1.8 The Agency has not met its objective of recovering assets to the value of its annual revenue budget by 2005-06 (**Figure 4**). The Agency has now revised the date for achieving this self-financing position to 2009-10.

1.9 As at the end of August 2006, the Agency had received a total of 707 referrals consisting of 468 for civil recovery, 201 for criminal confiscation and 38 for tax. Sixty per cent of cases were adopted by the Agency. Of these, just 12 per cent, 52 cases had been concluded

4 The Assets Recovery Agency has not yet achieved its target to become self-financing

| | 2003-04 | 2004-05 | 2005-06 | 2006-07 (9 months) unaudited |
|---------------------------------------|---------|---------|---------|------------------------------------|
| | £m | £m | £m | £m |
| Expenditure (gross) | 11.1 | 14.1 | 23.6 | 16.1 |
| Recovered asset receipts ¹ | 0.002 | 4.3 | 6.4 | 12.0 |

Source: Assets Recovery Agency Resource Accounts and Assets Recovery Agency data

NOTE

¹ Receipts on accruals basis. Additional income totalling £0.9 million in 2005-06 and £0.7 million in 2006-07 (to 31 December) was received from the Recovered Assets Incentivisation Fund and for training.

at that date. At the time of referral, the referral partners valued the assets of civil and tax cases at £273 million (assets in criminal cases are not valued at this stage) but these were valued at £139 million at the time of adoption.⁶ £132.1 million of assets had been disrupted as a result of all cases; £28.2 million of Orders had been granted and voluntary settlements agreed and £10.8 million of payments had been received (**Figure 5**).

1.10 In the three years since the Agency was created, receipts have been unpredictable and of widely variable amounts. The Agency received its biggest recovery to date of £11.5 million in November and December 2006 following a joint operation with the Criminal Assets Bureau in the Republic of Ireland. Payments of this magnitude are, however, untypical of the Agency's achievements so far. **Figure 6 overleaf** gives a breakdown of the value of receipts recovered by the end of August 2006, which ranged from £188, a first payment against an Order, to £3.7 million.

1.11 The uneven spread and value of payments make it difficult to predict whether the Agency is likely to meet its revised financial target of being self-financing by 2009-10. We looked, however, at the current pipeline of cases where assets have been disrupted and noted that there was only one other case valued at over £10 million. This would indicate that the Agency needs to prioritise its high value cases or finalise a larger number of lower value cases quickly to become self-financing by 2009-10 (**Figure 7 overleaf**).

5 Since it was set up, fifty two of the 707 cases referred to the Agency have resulted in recoveries (2003-2006)

| | Referred | | Adopted | | Disrupted | | Orders granted and voluntary settlements | | Receipts | |
|------------------------------------|----------|----------|---------|----------|-----------|----------|--|----------|----------------|------------------|
| | Number | Value £m | Number | Value £m | Number | Value £m | Number | Value £m | Number | Value £m |
| Civil Recovery | 468 | 254.3 | 252 | 138.4 | 132 | 88.6 | 38 | 10.8 | 37 | 10.1 |
| Criminal Confiscation ¹ | 201 | n/a | 132 | n/a | 26 | 39.8 | 12 | 16.7 | 6 ² | 0.2 ² |
| Tax | 38 | 19.4 | 37 | 1.0 | 25 | 3.7 | 10 | 0.7 | 9 | 0.5 |
| Total | 707 | 273.7 | 421 | 139.4 | 183 | 132.1 | 60 | 28.2 | 52 | 10.8 |

Source: National Audit Office review of Assets Recovery Agency data as at 31 August 2006

NOTES

¹ The value of criminal confiscation cases was not fully assessed at the time of referral or adoption.

² These figures exclude those cases in which the Agency assisted other law enforcement agencies and were not entitled to enforce recoveries.

⁶ The value of assets alters for a number of reasons, for example property values on referral rarely reflect mortgages, loans, depreciation or third party interests.

6 A breakdown of the recoveries received by the Agency by end August 2006

| Number of cases | Range of value of recovery |
|-----------------|----------------------------|
| 5 | £0 – £10,000 |
| 21 | £10,001 – £50,000 |
| 17 | £50,001 – £150,000 |
| 4 | £150,001 – £500,000 |
| 2 | £500,001 – £1,000,000 |
| 3 ¹ | £1,000,000 + |

Source: National Audit Office review of Assets Recovery Agency data

NOTE

¹ Representing two receipts of £1.1 million each and one receipt for £3.7 million; the £11.5 million receipt is not shown as it was received in November and December 2006

The Agency has collected over 90 per cent of the recoveries awarded

1.12 The Agency enforces Civil Recovery Orders, voluntary settlements and tax assessments, and also enforces criminal Confiscation Orders for those criminal cases where the offences were committed after the Proceeds of Crime Act 2002 came into force. Performance for each type of case had been as follows as at the end of August 2006:

- Civil Recovery Orders had been served in 38 civil cases, 24 of which had been paid in full, nine partially paid and five had not been paid. The Agency had collected 91 per cent of Civil Recovery Orders by value (£9.9⁷ million out of £10.8 million).

On average, it took 68 days for the Agency to receive payment when Orders were fully paid, with a payment range of between minus 16 days (where the respondent paid early) to 203 days. One Order for £209,000 had been outstanding for 509 days;

- The Agency had enforced six criminal Confiscation Orders, collecting a total of £220,328; and
- The Agency had secured taxation settlements in 9 cases collecting a total of £512,708 compared to agreed settlements of £761,584.

1.13 We considered the current barriers to the Agency progressing cases more effectively and efficiently. In particular, we examined:

- whether the Agency had insufficient referrals to meet the target levels of recovery;
- whether internal inefficiencies hindered progress; and
- whether the legal process of seizing the assets through the courts (including the invocation of the Human Rights Act) had taken longer than the Agency should have expected.

1.14 As part of our examination we reviewed 160 cases, which represented 23 per cent of all cases referred, including 50 per cent of completed cases. We reviewed 43 criminal, 102 civil and 15 taxation cases. The status of each of the cases reviewed is shown in **Figure 8**.

1.15 We also considered whether the Agency was effectively fulfilling its responsibilities under the Proceeds of Crime Act 2002 for the training, accreditation and monitoring of Financial Investigators. Our methodology is set out in Appendix 4.

7 There is only one case valued at over £10 million in the pipeline

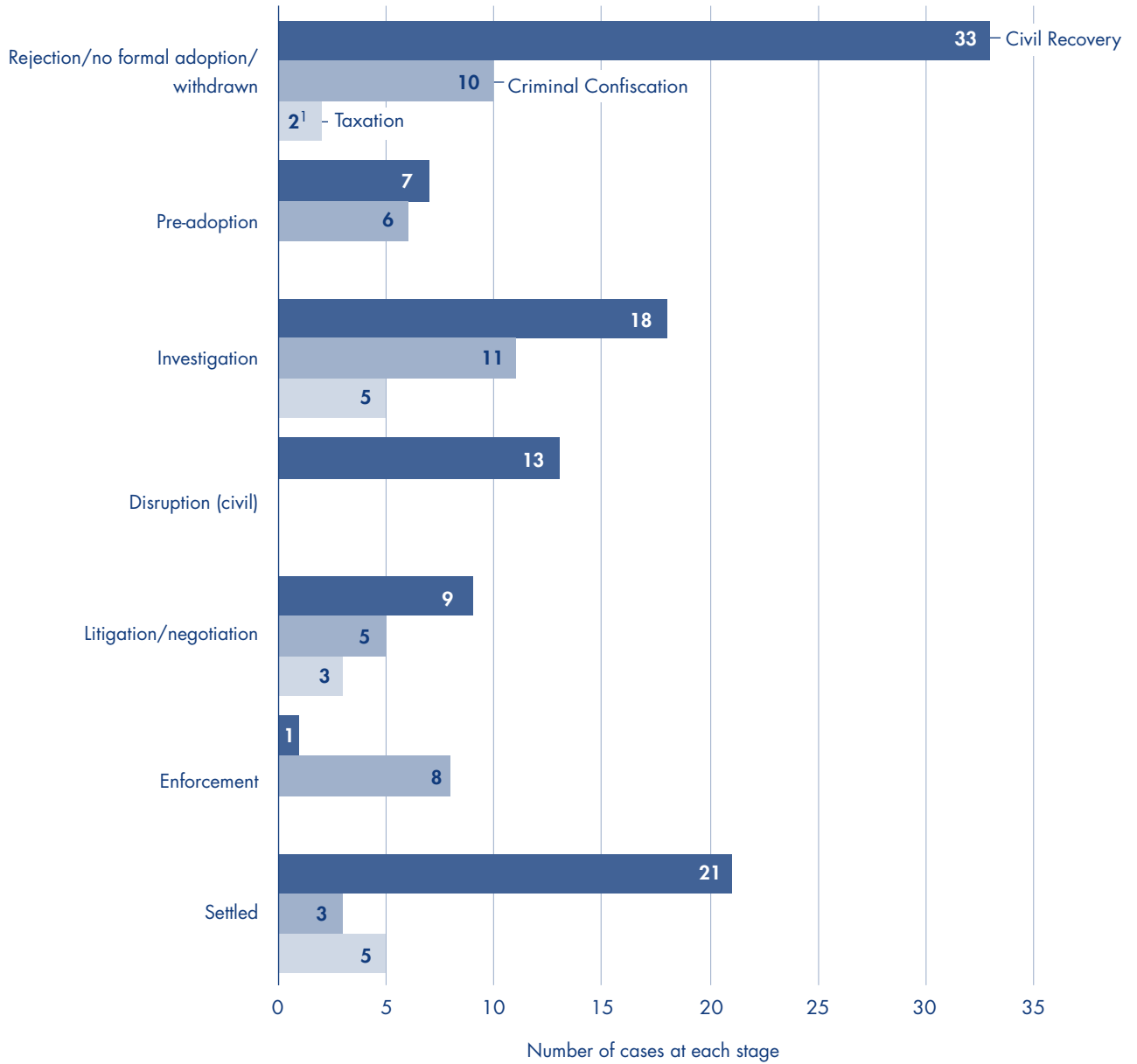
| Value of cases | <£50,001 | £50,001–150,000 | £150,001–500,000 | £500,001–1m | £1,000,001–10m | >£10m |
|---------------------------------------|----------|-----------------|------------------|-------------|----------------|-------|
| Number of Criminal Confiscation cases | 0 | 4 | 7 | 5 | 0 | 1 |
| Number of civil cases | 20 | 24 | 55 | 12 | 21 | 0 |
| Number of tax cases | 0 | 13 | 5 | 1 | 0 | 0 |

Source: National Audit Office review of Assets Recovery Agency data as at 31 August 2006

⁷ These figures differ from the civil recovery receipts figures of £10.1 million from 37 cases (in figure 5) as £185,927 was received from respondents in four cases where there was no Recovery Order (i.e. they were settled out of court).

8 The cases in our sample were at varying stages of completion

Shows the stage of each case in our sample at the time of our review.



Source: National Audit Office review of a sample of cases

NOTE

1 Includes one case where the Taxation Special Commissioners ruled against the Agency.

PART TWO

Case referral and adoption

Only one fifth of potential referral partners refer cases to the Agency

2.1 The Agency is reliant on referrals from other agencies as it has no powers to instigate investigations. Establishing good relations and clear criteria for referral are therefore essential to the success of the Agency. The Agency does not have a single database containing all cases, which made it difficult to derive a precise figure for the number of referrals. We estimate, however, that by the end of August 2006, 129 different agencies had referred 707 cases. **Figure 9** lists the partner agencies that have referred cases to the Agency, the potential number of bodies in each category, and the number of cases referred. The Recovered Assets Incentivisation Fund allows half the assets recovered to be shared among all the agencies involved in the recovery, including the referral partners and the Assets Recovery Agency, to be used, at least in part, for the improvement of asset recovery and, where appropriate, local crime fighting priorities.

2.2 Forty one police forces referred over 200 cases, accounting for 30 per cent of all referrals and twenty two per cent of assets recovered by the Agency, while the Police Service of Northern Ireland was responsible for 14 per cent of the Agency's referrals and thirteen per cent of assets recovered. HM Revenue & Customs (HMRC) accounted for some 16 per cent of referrals but their cases have resulted in some sixty per cent of the Agency's recoveries. A diverse range of bodies, including the Charities Commission, the Federation Against Copyright Theft, the Information Commissioner and the Financial Services Authority also referred cases. The Agency has a Memorandum of Understanding with many of its referral

partners, including the Association of Chief Police Officers and HMRC, and with individual referral partners on a case by case basis for criminal confiscation cases. Referral criteria are published on the Agency's website and in its Annual Reports.

Those referring cases often do so through personal contacts

2.3 As part of our audit we interviewed by telephone 31 agencies who had referred a total of 48 cases in our sample. Seventy per cent of those interviewed referred cases to the Agency because they had failed to get a conviction. Personal networks seem to play a significant role in determining whether organisations are willing to refer cases to the Agency, or know about the Agency's work: 45 per cent of referrers interviewed made initial contact with someone in the Agency whom they had known as a former colleague – the same number that used the Agency's central point. Whilst informal networks play an important role in sharing knowledge, there is a risk that referrals may fall as staff contact with previous colleagues reduces with time. Most of the referring partners had an agreed route within their own organisation for referring cases, with almost half using a central point. Nearly half of the referrers felt that the referral process was simple and three quarters felt that they were kept well informed throughout the investigation. The Police Service of Northern Ireland refers fourteen per cent of all cases referred to the Agency and has established formal procedures with a single point of contact for all liaison with the Agency. This arrangement is described in **Figure 10 on page 16**.

9 A range of organisations have referred cases to the Agency

| Category of referring body | Number of bodies that have referred | Number that could refer | Total number of referrals ¹ | Number of freezing orders/ disruptions | Value of freezing orders/ disruptions £ million | Number of cases where the Agency has received payment or part payment ² | Value of payments received £ million |
|--|-------------------------------------|-------------------------|--|--|--|--|---|
| Police forces – England and Wales | 41 | 45 | 215 | 65 | 31.1 | 15 | 2.4 |
| HM Revenue & Customs | 1 | 1 | 110 | 47 | 32.8 | 19 | 6.4 |
| Trading Standards Offices | 42 | 170 | 108 | 8 | 5.5 | 4 | 0.2 |
| Police Service of Northern Ireland | 1 | 1 | 99 | 30 | 21.4 | 9 | 1.4 |
| Serious Organised Crime Agency, National Crime Squad, Serious Fraud Office | 3 | 3 | 53 | 18 | 33.8 | 0 | 0 |
| Local Authorities ³ | 17 | 467 | 26 | 1 | 0.1 | 0 | 0 |
| Environment Agency | 1 | 1 | 9 | 0 | 0 | 0 | 0 |
| Regional Asset Recovery Teams | 5 | 5 | 8 | 5 | 1.5 | 1 | 0.1 |
| Department for Work and Pensions | 1 | 1 | 4 | 2 | 0.4 | 0 | 0 |
| Department for Environment Food and Rural Affairs | 1 | 1 | 2 | 0 | 0 | 1 | negligible |
| Department of Trade and Industry | 1 | 1 | 2 | 0 | 0 | 0 | 0 |
| Other ⁴ | 15 | n/a | 71 | 7 | 5.5 | 3 | 0.3 |
| Total | 129 | 696 | 707 | 183 | 132.1 | 52 | 10.8 |

Source: National Audit Office review of Assets Recovery Agency data as at 31 August 2006

NOTES

- 1 Includes all cases referred by the end of August 2006.
- 2 Excludes criminal cases where the Agency has assisted only.
- 3 Excludes cases from Trading Standards Offices (recorded separately).
- 4 Other includes 13 cases where the referral partner is unknown.

10 The Police Service of Northern Ireland has a formal arrangement with the Agency for case referral

The Police Service of Northern Ireland (PSNI) refers cases to, and liaises with, the Agency through a single point of contact, a small team in the Economic Crime Bureau and channels referrals to the Agency from District Command Units. The single point quality assures all referrals, carries out additional enquiries or intelligence searches, and acts a firewall for the release of intelligence to the Agency. There are procedures in place to ensure PSNI informs the Agency of any additional intelligence or information relating to ongoing cases. PSNI and the Agency have also carried out joint training for officers and Police staff. PSNI liaison goes through the Agency's Intelligence Cell which strengthens the firewall for intelligence before it is released to the Agency's Financial Investigators, and ensures all requests for information from the Agency are managed and signed off when completed.

Source: National Audit Office

There is some confusion about the role of the Agency among those bodies that have not referred cases

2.4 We also interviewed by telephone fifty eight bodies that could refer cases but had not done so, including six police forces that had not referred cases other than for assistance, four of which had not referred any cases, and ten per cent of local authorities and Trading Standards Offices selected at random from those that had not referred cases: thirty nine local authority benefit fraud units and thirteen Trading Standards Offices. Over a third of the organisations that had not referred cases to the Agency stated that they referred cases to other bodies such as police forces, the Department for Work and Pensions and Her Majesty's Revenue and Customs and many were unsure as to the Agency's role, compared to that of those bodies and of the Regional Asset Recovery Teams,⁸ which were set up to target the financial assets of criminals acting across police force boundaries. Sixty two per cent of the agencies said they had not referred because they felt that their cases would not meet the Agency's referral criteria. Many were mistaken as to what the criteria are or were unclear about the distinction between criminal and civil recovery. Twenty nine per cent said the Agency

should make it clear exactly what the Agency's role is, in order to increase referrals from partner organisations. Fifty nine per cent felt the Agency should publicise themselves more widely. The Agency told us it has tried to raise its profile with, and encourage referrals from, potential referral partners; and, in particular, has focussed on Local Authorities and Trading Standards Offices in 2005-07, through the work of its Financial Investigators and its central intelligence cell.

The Agency needs to manage the quality of referrals made

2.5 Cases that are judged unsuitable by the Agency are rejected. Despite guidance provided by the Agency and the opportunity for referrers to liaise directly with the Agency prior to making a referral, 20 per cent (139) of cases referred to the Agency, by August 2006, had been rejected. For the 36 such cases in our sample, the main reasons for rejection were: referral criteria not met (11 cases), referring partners conducting criminal investigations (nine cases); and cases being rejected or withdrawn prior to formal referral (six cases). Clearer guidance and feedback for referring agencies are needed if the Agency is to minimise the resources wasted on reviewing cases that do not meet the eligibility criteria or where the referring partner decides subsequently to conduct a criminal investigation. The Agency does not record the amount of time spent on each case but on average it took 180 elapsed days to reject a case.

2.6 Of the three referral partners we spoke to whose cases in our sample had been rejected, one felt that feedback was sufficient and there was a valid reason for the rejection, while the other two had received little feedback and were therefore unable to comment on the reasons. In one civil recovery case in our sample, that had been with the Agency for 179 days and was about to be rejected, the Financial Investigator had noted, on the case review form, that the adoption criteria for civil recovery cases needed to be explained to the local authority before referral. Referral partners may continue to refer unsuitable cases if they are not briefed by the Agency as to the reasons for the rejection of cases.

⁸ There are five Regional Asset Recovery Teams (RARTs) located around the country; they comprise staff from the local police forces, HM Revenue & Customs and others (e.g. The Crown Prosecution Service). They do not form part of the Assets Recovery Agency and are separately funded by the Home Office but the Agency's criminal confiscation Financial Investigators are co-located in the RARTs.

PART THREE

Case progression

Just under half of all cases referred prior to March 2004 were still ongoing in August 2006

3.1 As civil recovery was a new process when the Agency was set up, it was not possible to accurately predict the time necessary to complete cases. Our analysis of the Agency's case management data, however, showed that some 45 per cent and 59 per cent respectively of cases adopted prior to March 2004 and in 2004-05 were still ongoing at the end of August 2006 (**Figure 11 overleaf**). Delays in the progression of cases can be costly for several reasons: assets may be dissipated during the "covert" stage of the operation, when cases are under investigation but assets have not yet been frozen; assets may be reduced by paying the "reasonable costs" of the respondent's defence during the "disruption" phase of the investigation after the assets have been frozen; and additional staff costs may be incurred as a result of delays. Using our sample of cases we investigated the reasons for the time taken to progress cases, including the quality of case management information, the management of resources and the judicial process.

Cases where assets have been recovered took on average 490 days

3.2 Using our sample of cases, we calculated the average number of days for each stage of the recovery process (**Figure 12 overleaf**). We further calculated that in the fifty two cases where there has been recovery, or partial recovery, the Agency has taken an average of 490 days (608 days for criminal confiscations, 433 days for civil recovery and 607 for taxation).

Legal processes can increase the time taken to conclude cases

Waiting for court hearings does not appear to delay cases

3.3 All Orders and hearings for civil cases must go through the High Court. This could potentially introduce delays but we found little evidence of this during the course of our audit. As part of our case review, we spoke to lawyers in eleven civil recovery cases where there were applications for Orders. Investigative Orders in England and Wales are now mainly completed on paper without hearings, which speeds up the process, and, in our sample of cases, they were turned around in one week on average. In one case, however, the Agency tried to secure a court date for a claim hearing in May 2006, but was unable to get one until July 2006.

Challenges by the defence increased the time taken to conclude thirteen per cent of cases in our sample, including two challenges under the Human Rights Act 1998

3.4 The time taken to conclude 21 cases in our sample (thirteen per cent of our total sample and 40 per cent of all cases that had reached this stage) was increased because of representations by the defence. Of these, nine cases were civil recoveries, 10 were criminal confiscations and two were taxation cases. The most common reasons were: requests for extensions to prepare the case, disputes over the Agency's claims and legal aid problems. In the early days of operation, the Agency needed to establish that its powers to seek civil recovery in the courts did not contravene the Human Rights Act 1998. The Agency successfully defended this challenge but the Court of Appeal ruling took three years. We found two cases in our sample that were delayed due to issues relating to the Human Rights Act 1998.

11 Percentage of cases adopted by the Agency that are still ongoing by year

| | | Number of cases (Percentage of cases shown in brackets ¹) | | | | | | |
|-----------------------|--------------|---|-------------|------------------------------|-------------|---------------|--------------|------------|
| | | Cases withdrawn | | Cases completed ² | | Ongoing cases | | Total |
| To March 2004 | Civil | 53 | (45) | 15 | (13) | 49 | (42) | 117 |
| | Tax | 1 | (8) | 7 | (58) | 4 | (33) | 12 |
| | Criminal | n/a | n/a | 9 | (35) | 17 | (65) | 26 |
| | Total | 54 | (35) | 31 | (20) | 70 | (45) | 155 |
| 2004-05 | Civil | 44 | (44) | 5 | (5) | 52 | (51) | 101 |
| | Tax | 0 | (0) | 1 | (9) | 10 | (91) | 11 |
| | Criminal | 1 | (1) | 25 | (34) | 47 | (64) | 73 |
| | Total | 45 | (24) | 31 | (17) | 109 | (59) | 185 |
| 2005-06 | Civil | 39 | (25) | 14 | (9) | 104 | (66) | 157 |
| | Tax | 0 | (0) | 1 | (7) | 13 | (93) | 14 |
| | Criminal | n/a | n/a | 5 | (13) | 33 | (87) | 38 |
| | Total | 39 | (19) | 20 | (9) | 150 | (72) | 209 |
| April to August 2006 | Civil | 2 | (4) | 3 | (6) | 45 | (90) | 50 |
| | Tax | 0 | (0) | 0 | (0) | 0 | (0) | 0 |
| | Criminal | n/a | n/a | 2 | (4) | 45 | (96) | 47 |
| | Total | 2 | (2) | 5 | (5) | 90 | (93) | 97 |
| Unknown referral date | Civil | 0 | (0) | 0 | (0) | 43 | (100) | 43 |
| | Tax | 0 | (0) | 0 | (0) | 1 | (100) | 1 |
| | Criminal | n/a | n/a | 0 | (0) | 17 | (100) | 17 |
| | Total | 0 | (0) | 0 | (0) | 61 | (100) | 61 |
| Total | 140 | (20) | 87 | (12) | 480 | (68) | 707 | |

Source: National Audit Office review of Assets Recovery Agency data as at 31 August 2006

NOTES

1 Not all percentages add up to 100 per cent due to rounding differences.

2 Cases are deemed completed if recovery is received or, in the case of criminal cases where the Agency has assisted other law enforcement agencies, where a confiscation order has been awarded.

12 The average number of days for each stage of the recovery process in our sample of 160 cases

| | Rejection/no formal adoption/withdrawn | Pre-adoption | Investigation | Disruption | Litigation/negotiation | Enforcement |
|-----------------------|--|--------------|---------------|------------|------------------------|-------------|
| Criminal confiscation | 165 | 87 | 320 | n/a | 154 | 172 |
| Civil recovery | 135 | 59 | 199 | 160 | 156 | 120 |
| Taxation | 93 | 78 | 182 | n/a | 341 | n/a |
| Average | 131 | 75 | 234 | 160 | 217 | 146 |

Source: National Audit Office review of a sample of cases

Respondents who are entitled to legal aid have caused delays but their numbers have fallen since the introduction of the Serious Organised Crime and Police Act 2005

3.5 Under the Proceeds of Crime Act 2002, respondents may claim legal aid in relation to civil, criminal and tax cases. From our review of 160 cases, we identified 13 respondents who had received legal aid to a total of £79,710. The largest payment of £43,731 relates to a court case in 2004. Prior to January 2006, the legal aid application process caused additional delays whilst the Legal Services Commission authorised providers of legal advice, and assessed complex financial eligibility criteria. Legal Aid was cited by Financial Investigators as a source of delay in two of our sample of cases. After January 2006, however, the availability of legal aid was reduced significantly following the introduction of the Serious Organised Crime and Police Act 2005. Frozen assets can now be released to meet “reasonable” legal expenses incurred in connection with proceedings, rather than respondents relying on legal aid. Defendants holding more than £8,000 in capital are not eligible for legal aid and this threshold is breached in most of the Agency’s cases, once frozen assets are taken into account.

Internal processes could be improved to speed up the progression of cases

The Agency is not providing sufficient feedback to referral partners

3.6 The Agency noted that in eleven cases in our sample, delays had been caused by the referral partners failing to provide information promptly. We spoke to the seven referring partners to establish the cause of the delay. In respect of the Police Service of Northern Ireland (PSNI), delays were due to the process of clearing the release of intelligence from PSNI. Of the six other referral partners, only one was aware that they had contributed to the delay. This lack of feedback is unlikely to help referral partners to improve their performance in future cases.

Preparation of witness statements can cause delays

3.7 Financial Investigators are required to prepare witness statements to obtain Orders from the High Court. In the 11 cases where we obtained information on the time taken to draft witness statements it took an average of 141 days from first receipt of the draft witness statement by lawyers to submission to court. In one case, the witness statement had been received in February and was still in draft at the end of September. The Agency told us it is currently reviewing the pro-forma templates that are used to facilitate the drafting of statements.

Case management is informal and inconsistent

3.8 Our review of 160 cases showed that Financial Investigators do not have a formal and consistent approach towards case management, particularly in civil and tax investigations. Some cases are managed by regularly completing case plans and setting target dates for the preparation of witness statements, and court hearing dates. For example, in one case the case plan was regularly updated by the legal caseworker, specifying future court dates and deadlines for the completion of statements. This was the exception, however, and there was no accountability for failure to meet such deadlines.

3.9 In the Belfast office we noted that the legal team has a target to review and give affidavits back within two to three weeks. However, again there was no evidence of action taken if these dates were not met. In contrast, criminal confiscation cases have a timetable set by a judge for serving section 16 or 73 reports and for confiscation hearings.⁹ There were 22 cases in our sample where the criminal hearing had occurred and the judge had therefore set a timetable. We identified only one case where the Agency had not met the timetable for serving the statements. Our discussions with Financial Investigators in both Belfast and London revealed that investigators tend to informally prioritise cases. This is more likely to occur where Financial Investigators are not held accountable for meeting target dates for all their cases.

⁹ Section 16 and 73 reports set out the benefits of the crime and the available assets. Section 73 reports are used where the crime was committed before the Proceeds of Crime Act 2002 came into force and the confiscation case is heard under the Criminal Justice Act 1988.

Case management information is poor

3.10 The Agency purchased a case management system at its outset but it is not widely used by Financial Investigators and does not provide the basic information to track cases. For example, it is unable to produce management information on the number of cases at different stages of the process, nor does it record the current position on the recovery of assets. As a consequence, each area and team has devised its own method of tracking cases and we came across at least five different databases. This meant, for example, that the Agency was unable to tell us how many cases had been referred to it. One database listed 536 cases but when we sought to verify this information, the Agency gave us two additional databases, one for civil recovery and taxation cases and another for criminal confiscation cases, which listed a total of 639 cases. Both the original list of 536 cases and the two new lists contained cases which did not appear on the other lists. We had to manually collate and check the lists to derive the figure of 707 for the total number of cases.

3.11 We were unable to establish the amount of time spent by the Agency's staff on cases as the Agency does not have a time recording system. Currently lawyers note the time they spend on their cases on paper-based activity notes that are placed on file. If a respondent is ordered to pay costs, staff have to go through the files to add up the time detailed on these activity notes. Other staff do not record the time they spend on cases in a way that can be used by the Agency to effectively manage its resources and prioritise cases.

Staffing issues also cause delays

3.12 Since it was set up, the Agency has experienced a high turnover of staff, mainly due to its high use of temporary and seconded staff. In the year to the end of September 2006, for example, almost a quarter of the Agency's staff left, including almost half the legal staff and over 40 per cent of training and development staff. The Agency told us that this was due in part to the current practice within the Government Legal Service of rotating posts every two to three years. At the time of our audit, the Agency had four vacancies in London for lawyers, including the Head of Legal Operations¹⁰, which has led to delays in preparing cases for court. The Agency

has responded by passing across work that involves the reviewing of witness statements for various Orders to the Belfast lawyers. While this is a good example of utilising available resources, it is surprising that two lawyers in the London team told us that they had spare capacity. Taxation lawyers also informed us that they have spare capacity. This underlines the need for a reliable time recording system to support the management of the Agency's resources.

3.13 In the Agency's 2006 staff survey, which had a response rate of less than 60 per cent, almost half of respondents expressed dissatisfaction with their career opportunities at the Agency. Turnover has resulted in a high proportion of staff who lack experience in the Agency's work, and a quarter of staff responding to the 2006 survey were not satisfied with the developmental training that they had received.

Receivers' costs accounted for over 30 per cent of expenditure in the first nine months of 2006-07

3.14 Receivers are appointed by the Courts in some civil recovery cases to manage the disrupted assets. Since April 2006 the Agency applies for the appointment of receivers only in cases where the assets are too complex for it to manage with a Property Freezing Order, for example, where there are businesses to run. Although receivers are appointed by the Courts, the Agency nominates¹¹ them, is invoiced by the receivers and pays their fees. The Agency has spent £15.7 million on receivers' fees, up to 31 December 2006, including over £5 million (31 per cent of expenditure) in 2006-07, in a total of 79 cases. It expects the cost to rise to £16.4 million by the end of 2006-07, giving an average cost per case, where receivers are involved, of some £208,000. Some cases have attracted particularly high fees, one case has cost over £1.5 million in fees to date and is expected to rise to £2.7 million, in respect of assets with an estimated value of £7 million. Another case has already cost over £1 million and is expected to cost £1.5 million in total; in this case the receivers are investigating assets valued at £4.8 million. A further seven cases have already given rise to receivers' fees exceeding £3.5 million, relating to investigated assets valued at £7 million.

¹⁰ The head of Legal Operations position was filled on 2 January 2007 having been vacant for 3.5 months.

¹¹ The receivers are drawn from a panel of 12 approved receivers (with a reserve list of two), that can be appointed in all proceeds of crime cases. The panel resulted from a joint procurement exercise between the Crown Prosecution Service, the Agency and the Revenue & Customs Prosecutions Office.

3.15 While there are no completed cases where the receivers' fees have exceeded the amount recovered, there are four cases where the fees already paid exceed the estimated value of the assets made at the time that the Interim Receiving Order was put in place. In a further eight cases, fees are expected to exceed the estimated value of the assets by the end of 2007-08. One of the roles of the receiver is to carry out further investigations of the assets held, and it is possible that the value estimated at the time of the Interim Receiving Order could increase or decrease. The Agency does not, however, update these valuations on its database (**Figure 13**).

3.16 The Agency is taking steps to gain better value for money in the management of receivers' costs by exploring fixed price tendering. So far, however, only one receiver – in Northern Ireland – has been nominated under the new arrangements, at less than one third of the average receiver cost per case there. Although this is only one example of fixed price tendering, it would indicate that the Agency should trial this approach in more cases to assess its usefulness in reducing costs across their caseload. The Agency has told us that it has also increased its monitoring of receivers' fees. Receivers must now supply cost estimates for each case and actual costs are compared against these estimates and any material variances are investigated.

13 Fees are expected to exceed the estimated value of the assets in 12 cases by the end of 2007-08

| Date | Interim Receiving Order | Receivers' fees | | Receiving Order amount ¹ less estimated receivers' fees |
|-------------------|-------------------------------------|---------------------------------------|-------------------------------------|--|
| | Amount of Order ¹ (£) | Actual to 30 September 2006 (£) | Expected to 31 March 2008 (£) | (£) |
| 14 December 2004 | 300,000 | 573,000 | 765,000 | (465,000) |
| 27 January 2006 | 300,000 | 210,000 | 706,000 | (406,000) |
| 16 September 2005 | 250,000 | 413,000 | 568,000 | (318,000) |
| 27 January 2006 | 400,000 | 312,000 | 650,000 | (250,000) |
| 24 March 2006 | 250,000 | 199,000 | 412,000 | (162,000) |
| 1 October 2004 | 320,000 | 370,000 | 444,000 | (124,000) |
| 22 March 2005 | 200,000 | 165,000 | 260,000 | (60,000) |
| 30 June 2006 | 80,000 | 0 | 136,000 | (56,000) |
| 21 February 2005 | 308,000 | 295,000 | 359,000 | (51,000) |
| 14 July 2004 | 312,000 | 296,000 | 332,000 | (20,000) |
| 31 July 2003 | 12,000 | 15,000 | 15,000 | (3,000) |
| 15 December 2004 | 328,000 | 273,000 | 329,000 | (1,000) |

Source National Audit Office analysis of Assets Recovery Agency data

NOTES

1 Interim Receiving Orders are made for an amount representing the estimated value of assets at that time. Each row represents a separate case.

PART FOUR

The training of Financial Investigators

The Agency has exceeded its targets for delivering training courses

4.1 As part of its statutory responsibilities, the Agency is charged with promoting the use of financial investigation both within and outside the Agency, through training, accreditation and monitoring the performance of Financial Investigators. Its specific targets for 2005-06 were:

- to deliver 80 courses on financial investigation and specialised modules (the Agency delivered 117 courses);
- to manage the accreditation appeals process within agreed timescales (there were none in 2005-06); and
- to support delivery of training to Financial Investigators from other partner agencies by providing 65 training places funded by the Recovered Assets Incentivisation Fund and a further 65 places paid for by the organisation (an underspend in previous years enabled the Agency to fund 119 training places in 2005-06).

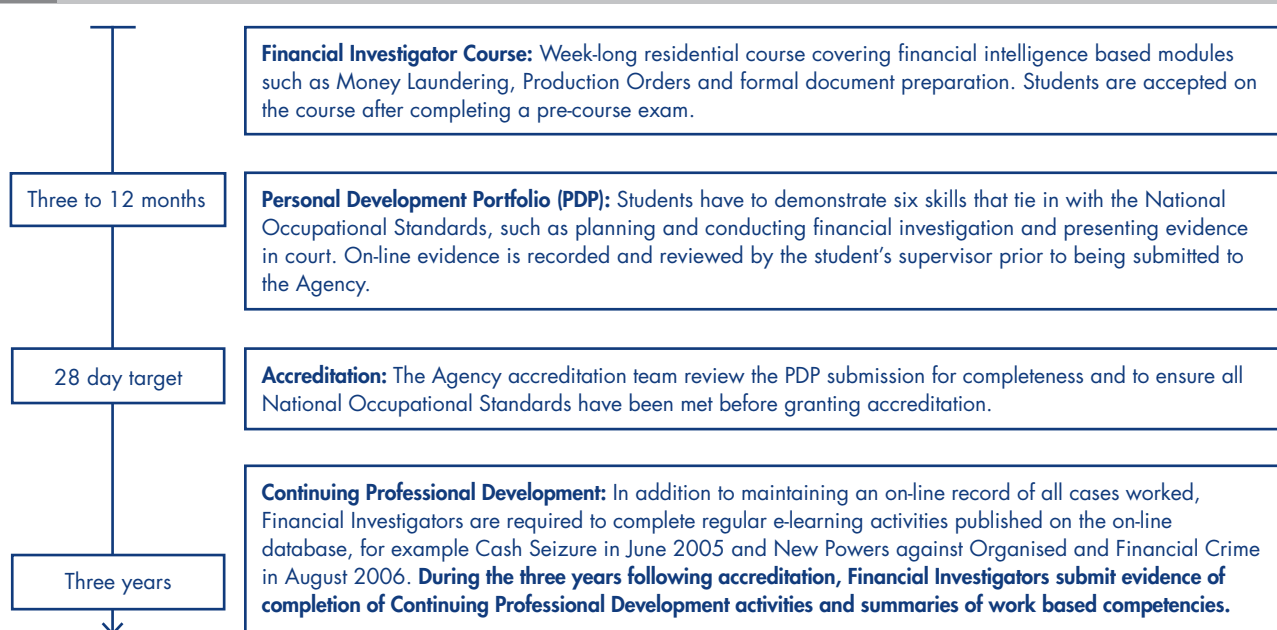
The Agency funds training for the police

4.2 The Agency carries out its training functions through the Financial Investigation Centre of Excellence supported by its training partners: the Metropolitan Police Service, HM Revenue & Customs, the Serious Organised Crime Agency, the Police Service of Northern Ireland, Greater

Manchester Police Force and Merseyside Police Force. The Centre develops and delivers the financial investigation training programme and accredits Financial Investigators who have completed a Personal Development Portfolio demonstrating competence in the workplace against relevant National Occupational Standards, so that they can use statutory powers. The Centre also delivers enhanced Financial Investigator training, including specialised courses in confiscation and money laundering, as well as bespoke training charged at cost price. This includes Financial Investigator and Train the Trainer courses for overseas jurisdictions. **Figure 14** sets out the training and accreditation process for Financial Investigators.

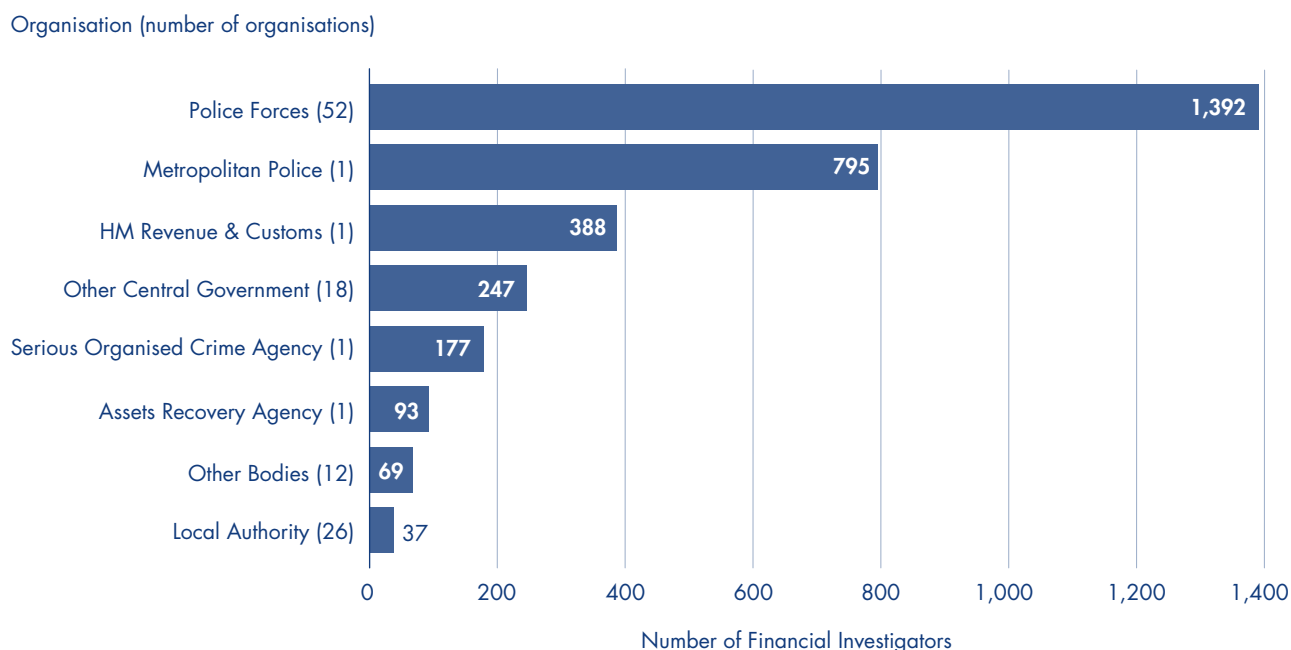
4.3 All students completing a course run by the Centre of Excellence are given a unique user name and access rights to the Financial Investigation Support System (FISS) database, an on-line e-learning website and training support system. At the time of our audit, staff from 112 organisations were registered as users, with the police and HM Revenue & Customs accounting for the majority (**Figure 15**). The Agency has funded the training of police officers for three years, to build financial investigation capacity, while other organisations pay the full course fee of £689 per student. The Agency plans to charge for all training and accreditation in the future; when this is put into practice it will encourage police forces to keep trained Financial Investigators in this role following training.

14 The training of Financial Investigators involves formal courses and completion of mandatory activities over a three to 12 month period, prior to accreditation



Source National Audit Office analysis

15 112 organisations have a total of 3,198 FISS registered users at the Continuing Professional Development Stage of the training programme



Source: National Audit Office analysis of FISS database extracts provided by Assets Recovery Agency (position as at end September 2006)

Those receiving training are positive about the timing and quality of the courses

4.4 In 2006 Financial Investigators were required to complete a Financial Investigation Questionnaire as part of their Continuing Professional Development. The questionnaire seeks feedback on the quality of courses provided by the Centre, the timing of training, reasons for attending courses and the extent to which attendees use the skills acquired. Responses were received from 1,028 Financial Investigators by the extended response deadline, from 76 different organisations (a response rate of 37 per cent) and were largely positive:

- between 69 per cent and 86 per cent of respondents, depending on the course they attended, rated the course as either good or excellent;
- 79 per cent of those replying said that the timing of the Financial Investigation training was appropriate; and
- 68 per cent of respondents undertook the course because their role required them to be an accredited Financial Investigator.

It is difficult to establish the number of Financial Investigators accredited by the Agency

4.5 We found contradictory information on the number of Financial Investigators. At the time of our fieldwork we were told that it was 2,788, corresponding to the number of questionnaires sent out, but only 1,028 replies were received by the extended deadline, despite completion of the questionnaire being a mandatory requirement for Continuing Professional Development of Accredited Financial Investigators. We sought to use the Agency's Financial Investigation Support System to establish the correct number, as this should contain up to date details of those who have been accredited and are now using the system to maintain their accreditation by completing monthly assignments. We found that the database held details on 3,198 registered users.

Data on the Financial Investigation Support System are unreliable

4.6 Our analysis of the Financial Investigation Support System showed 58 per cent of the 3,198 registered users (1,862 users) had completed less than half of their Continuing Professional Development activities. Further analysis of the FISS database showed that around 90 per cent of the 3,198 users registered had not completed all the Continuing Professional Development activities. To understand reasons for non-completion and ascertain the reliability of the Agency's training database, we investigated 1,551 of those registered users who had completed less than 50 per cent of activities. This sample included the 43 English and Welsh police forces, British Transport Police, Ministry of Defence Police, the Police Service of Northern Ireland, and the six other largest users¹² of FISS.¹³ Our analysis, illustrated in **Figure 16**, showed that, of these:

- 13 per cent (207 users) had not completed their Financial Investigation training and therefore should not have been shown as being required to complete Continuing Professional Development activities;
- 27 per cent of users (418 users) were unknown to the Agency's central contact at the organisation with which they were registered;
- 31 per cent (477 users) had left their organisation or were no longer involved in financial investigation;
- five per cent (84 users) had failed to complete their Continuing Professional Development activities for other reasons such as being on secondment;
- two per cent (34 users) had retired; and
- 331 registered users in our sample (21 per cent) appeared to have a financial investigation role but had completed less than half of the required Continuing Professional Development activities.

4.7 The Agency's current exercise to identify and remove users no longer in financial investigation roles will clean up the database and the Agency should be better able to effectively monitor Continuing Professional Development in the future. The Agency has now identified that there are 1,937 accredited Financial Investigators who should be completing Continuing Professional Development.

¹² Assets Recovery Agency, HM Revenue & Customs, Department for Work and Pensions, Serious Organised Crime Agency, Serious Fraud Office and Immigration Service.

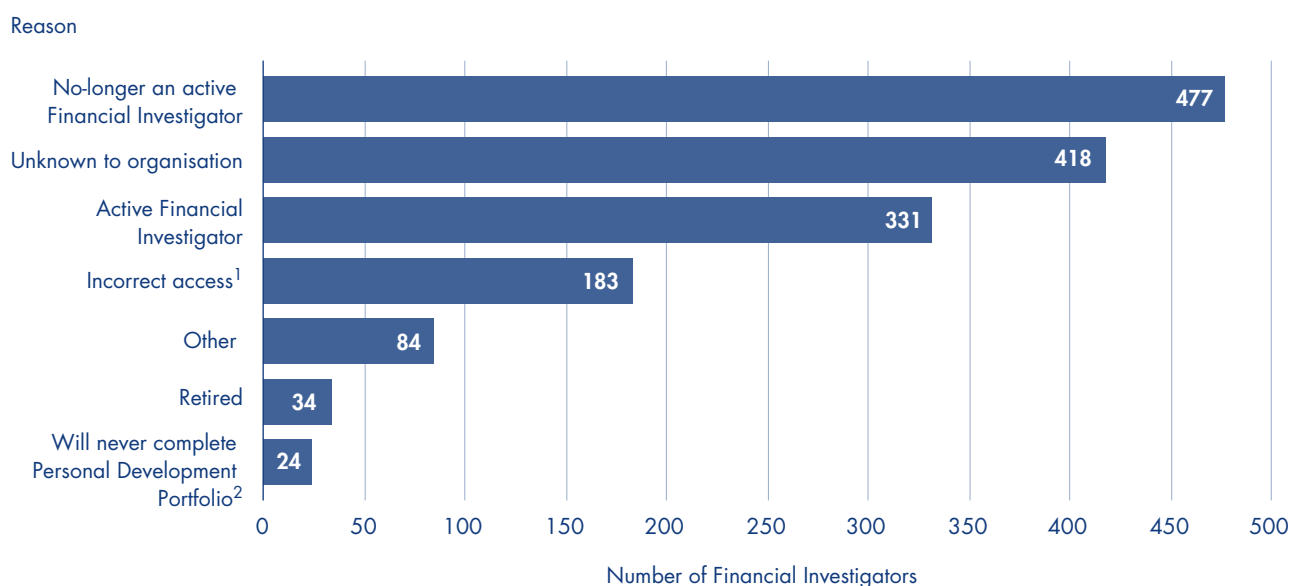
¹³ Identified through our analysis of the FISS database.

Many of those receiving training do not use their skills subsequently

4.8 Our analysis also indicates that up to 62 per cent¹⁴ of those in our sample who had attended training courses will not subsequently use the skills acquired. The Agency seeks to recover full course costs from those attending the Financial Investigators course who fail to complete the Personal Development Portfolio required for accreditation; and 51 such individuals in 2005-06 were asked to pay the fees. At present, no similar exercise is conducted for those individuals obtaining accreditation and subsequently not using the financial investigation skills acquired. Requiring all participants, including the police, to meet the costs of training, as the Agency plans to do in the future, could reduce the wastage on these courses.

4.9 The Agency's Continuing Professional Development Strategy for 2006-09, published in July 2006, sets out changes to the Continuing Professional Development process, such as the introduction of Continuing Professional Development requirements tailored to a user's role, which will help the Agency to monitor the true number of Financial Investigators, and the procedures the Agency will implement to comply with their statutory obligation of monitoring the performance of accredited Financial Investigators under the Proceeds of Crime Act 2002. For example, from September 2009, Financial Investigators not having completed all Continuing Professional Development requirements twelve months after accreditation will be immediately suspended, instead of being given a prior warning. The recent evaluation of the FISS database has led to individuals being suspended or removed. This cleansing of the database will facilitate more effective monitoring in the future.

16 Reasons given by the 1,551 FISS registered users for not completing more than half the required Continuing Professional Development activities



Source: National Audit Office and Agency Analysis of FISS database

NOTES

1 'Incorrect access' includes those currently completing their Personal Development Portfolio who are not yet required to undertake Continuing Professional Development and those who had not taken the Financial Investigation course.

2 'Will never complete' Personal Development Portfolio includes those who completed the Financial Investigator training but failed to complete the Personal Development Portfolio to obtain accreditation.

14 There are 953 registered users who are no-longer active Financial Investigators, or are unknown to their organisation (presumed left), or retired or will not gain accreditation after completing the Financial Investigator course. This constitutes 62 per cent of our sample and 29 per cent of the 3,198 users registered on FISS. Our analysis assumes all those on FISS have completed Financial Investigator training and that those completing more than half their Continuing Professional Development remain active Financial Investigators.

APPENDIX ONE

Examples of the Agency's successful cases

Extracts from the Agency's press releases at the time the cases were concluded:

Confiscation of £1,079,644 in prostitution case

Assets Recovery Agency Financial Investigators, working in partnership with Thames Valley Police, secured a Confiscation Order for £1,079,644 against Jonathon Leeming of Stratfield, Basingstoke, Hampshire, who was convicted of conspiracy to control prostitutes and was sentenced to eight months' imprisonment in January 2006.

The offences first came to light in August 2004 when a criminal investigation was launched following a number of complaints being received by police from residents in Reading. Two premises were identified which were believed to be operating as brothels in the town at Regents Court, Great Knollys Street, and 'Club 263', 263 Oxford Road. Following raids on these premises four women admitted to being prostitutes at 263 Oxford Road and two admitted to similar activity at the Regents Court address.

On 23 November 2005 at Oxford Crown Court, Mr Leeming was convicted of controlling prostitution for gain between 1 May 2004 and 16 August 2004. On Friday 20 January 2006, the defendant appeared at Guildford Crown Court and was sentenced to eight months' imprisonment.

On Thursday 14 December 2006 at Reading Crown Court, His Honour Judge Risius certified that the benefit derived by Mr Leeming from his general criminal conduct amounted to £1,079,644, and made a Confiscation Order for that same amount. The court ordered Mr Leeming to make payment of the Order to the ARA within three months or face 10 years' imprisonment in default.

Confiscation Orders exceeding £25,000 secured in counterfeiting case

Assets Recovery Agency Financial Investigators, working in partnership with Newport Trading Standards Service, secured Confiscation Orders worth a total of £25,149.72 against Maria and David Hancock of Cedarwood Drive, Rogerstone, Newport, who were convicted of counterfeiting offences earlier this year.

On 31 March 2005, officers from Newport Trading Standards Service searched the Hancocks' home address. On the dining room table they found two packages sent from Thailand which contained counterfeit Disney DVDs in cellophane wrappers. In an upstairs room used as a study, a further six boxes of counterfeit Disney DVDs were found, also imported from Thailand. Officers also uncovered eight addressed envelopes containing fake Disney DVDs which were ready for dispatch, as well as two computers, empty DVD boxes, cellophane case wraps, Royal Mail receipts for posted goods and other paraphernalia used in the packaging and postage of DVDs. In total 324 counterfeit DVDs were removed from the property, the majority in multipacks with inserts ready to be put into DVD cases.

On 19 September 2005, both Maria and David Hancock were interviewed by Trading Standards officers. Maria Hancock admitted the sale of Disney DVDs on eBay and Amazon. Apparently she had originally bought Disney DVDs for her own use from internet suppliers in Thailand, but then began buying them on a larger scale in order to sell them on via online auction websites. She claimed that because the DVDs came from a public website, she had no reason to believe they were counterfeit. She claimed that she only started selling Disney DVDs in any quantity from November 2004.

Maria Hancock estimated that she had sold between five and six hundred of the fake Disney DVDs. She claimed to be buying them for £7 and selling them for around £12, but only making £2-3 per disc after overheads. Mrs Hancock claimed that her eBay activities did not constitute a business, and the returns made were “pin money”. When shown an e-mail sent to her supplier saying, “DVDs were my business” Mrs Hancock claimed not to be earning a living selling DVDs.

When Mr Hancock was asked about his involvement with the sale of DVDs, he claimed to do some packaging and runs to the post office, and admitted having his own eBay account which was used to sell some pirate Disney DVDs but that it was predominately used for other things.

It has been confirmed that sales from two main eBay accounts were run by Mrs Hancock under the usernames ‘littletreasures19’ and ‘blockbusters19’. Investigations showed that over 1,300 DVDs had been sold between March 2004 and March 2005.

On 23 May 2006 at Abergavenny Magistrates’ Court, Maria Hancock pleaded guilty to nine offences under the Trade Marks Act, and David Hancock to eight offences under the Act.

At Newport Crown Court yesterday, Recorder Patrick Curran QC certified that Maria Hancock had benefited from her criminal conduct to the sum of £24,015.72, and granted a Confiscation Order for that amount. She faces one month’s imprisonment in default should she not make payment to ARA within 12 months. Judge Curran also certified that David Hancock had benefited to the tune of £1,134, and made a Confiscation Order for that amount. Mr Hancock will face seven days in prison if he does not pay within 12 months. The Hancocks also both received conditional discharges for 12 months for each offence they committed.

£18.5 million to be recovered from assets linked to VAT “carousel” fraud

Dylan Creaven, acquitted of missing trader VAT fraud last year, agreed to pay £18.5 million to the Assets Recovery Agency and the Criminal Assets Bureau (CAB) in the Republic of Ireland in respect of property which resulted from the VAT fraud.

The agreement was reached after a mediation process whereby Mr Creaven would pay over to the two bodies a total sum of £18 million, and €176,000, and will also transfer the ownership of a luxury villa in Marbella and four racehorses, one of which was the winner of the 2005 Galway Hurdle.

In 2005, Mr Creaven stood trial for VAT fraud following an investigation by HM Revenue & Customs into allegations that he played a principal part in an international missing trader VAT fraud through his computer chip business in the Republic of Ireland.

Following a subsequent investigation by ARA, with an involvement from CAB, Assets Recovery Agency lawyers were successful last year in obtaining a Freezing Order over Mr Creaven’s assets.

Having been presented with the evidence compiled by ARA and CAB, Mr Creaven agreed to pay £18 million, and €176,000, and to transfer the ownership of his Spanish luxury villa and his four racehorses. *ARA received £11.5 million in November and December 2006.*

Over £3.6 million Civil Recovery Order in drugs case

Convicted drug trafficker Curtis Warren failed to convince the High Court in London in October 2004 that over £3.6 million belonged to him. In a complex case, two convicted drug traffickers each laid claim to the money but the Agency asserted that it belonged to a third. The money in this case was £2.2 million cash seized from Brian Charrington’s Middlesbrough home in 1992 by HM Customs & Excise during an investigation into drug trafficking. The money was put into an interest-bearing account and grew to £3,625,895.45. The Agency’s case was that Mr Charrington was holding the cash to launder for Mario Halley.

In the initial investigations, both Brian Charrington and Curtis Warren denied ownership of the cash or involvement in drug smuggling. Subsequently both claimed that the cash was theirs. In July 2004, the High Court rejected Mr Charrington’s claim that the money was profit from legitimate diamond dealing and that he was the lawful owner of the cash. Curtis Warren was given further time to substantiate his claim that the cash was his and represented the proceeds of a drugs importation of 500 kilograms of cocaine in 1991 for which he was the mastermind albeit he had been acquitted at his trial – he failed to do so and the Agency was granted the Civil Recovery Order.

Murdered Loyalist Paramilitary's £1.25 million estate surrendered to Agency

The Assets Recovery Agency was granted a Civil Recovery Order for over £1 million as a result of an agreed settlement with the representatives of the late James Herbert Johnston's estate. This case was referred to the Agency by PSNI in May 2003. PSNI and other law enforcement agencies then worked closely with ARA in building the case. After initial investigations the Agency searched a number of properties including Mr Johnston's Crawfordsburn address where they discovered a partially assembled bomb and ammunition.

Mr Justice Coghlin granted a Recovery Order in Belfast High Court on 20 September 2004. Under this, assets valued at between £1.2 million and £1.25 million have been forfeited. This includes Mr Johnston's former luxury home in Crawfordsburn Co. Down together with a further seven properties in Northern Ireland, a holiday home in County Sligo in the Irish Republic and one set of commercial premises in Belfast. There was also a significant investment portfolio. Had ARA's claim been contested the Agency would have argued in the High Court that the money in this case had been derived mainly from Loyalist paramilitary activity and drug dealing in the North Down area.

Suspected distributor of counterfeit goods obliged to pay ARA £71,000 tax

The Agency raised tax assessments against Gary Harper, a resident of Northern Ireland, for eight tax years, from 1995-96 to 2002-03. Mr Harper appealed against those assessments and the appeal was heard by the Special Commissioners sitting in Belfast. The Commissioners found in the Agency's favour and ruled that the sum of £71,281 was due from Mr Harper.

The Agency successfully argued that Mr Harper had received money exceeding his declared income and that this was likely to have been linked to the illegal importation of cigarettes and alcohol, the distribution of counterfeit goods, and the proceeds of others' criminal activity. It further argued that the appropriate tax had not been paid on this excess income.

Over the eight years under review, Mr Harper successively acquired three houses with the assistance of substantial mortgages, as well as a building plot. He also purchased several vehicles, a share in a boat, and certain other items of exceptional value, including jewellery. Additionally, sizeable cash sums had been paid into bank accounts which he controlled.

The matter came before the Commissioners in November 2004 and again in March 2005, and on both occasions directions were given requiring Mr Harper to state his case as to why he contended the assessments were excessive, and to provide supporting evidence. At no point did he provide any such information. According to the Special Commissioners' decision, the Agency's methodology was "sound and based on a proper approach to the assessment of undeclared income".

ARA and NHS secured confiscation of fraudster pharmacist's assets

Assets Recovery Agency Financial Investigators, working in partnership with the National Health Service Counter Fraud Service, were successful in obtaining a Confiscation Order in the sum of £212,464.17 against Mohammed Shabir of Leeds, who was convicted at Leeds Crown Court in July 2005 of offences of false accounting and obtaining money transfers by deception. Mr Shabir also had to pay £2,600 in prosecution costs.

Between May 2003 and November 2004 from the Cardigan Road Pharmacy in Leeds, Mr Shabir defrauded the NHS by dispensing medicines for which he received and retained the standard prescription fee. He then fraudulently altered the prescription forms to make it appear that patients were entitled to free medication by way of exemption in order to claim the fee from the NHS as well. By doing so he deceived the NHS into making payments to him for prescriptions for which he had already received payment from the patient. In addition he claimed the costs of drugs he did not dispense, and made false claims in respect of medication supplied to nursing homes.

At Leeds Crown Court on 14 July 2005, Mr Shabir was convicted by a jury of seven counts of false accounting and six counts of obtaining money transfers by deception. He was sentenced to a period of nine months' imprisonment. At a confiscation hearing at Leeds Crown Court, His Honour Judge Peter Hunt certified that Mr Shabir had benefited from his criminal conduct in the sum of £212,464.17 and made a Confiscation Order in that amount.

ARA secured seizure of over £100,000 of convicted robber's assets

In its first fully contested case in Belfast, the Agency secured the seizure of the assets of a convicted armed robber (who cannot be named for legal reasons).

At the Northern Ireland High Court on 6 July 2006, Mr Justice Coghlin granted a Civil Recovery Order on assets believed to be worth around £110,000.

The Agency, in one of its first cases in Belfast, brought civil recovery proceedings against a house and bank accounts owned by the respondent, who had served a prison sentence for conspiracy to commit armed robbery. The respondent has a substantial criminal record including convictions for a number of offences involving dishonesty.

At an early stage in the civil recovery proceedings, the respondent argued that ARA's action against him should be classified as criminal proceedings rather than civil proceedings under the European Convention on Human Rights. If the respondent had been successful in this argument, it would have entitled him to additional human rights protections which are only available to defendants in criminal trials. The respondent's challenge was dismissed by the Northern Ireland High Court and the Northern Ireland Court of Appeal. The respondent then petitioned the Appeal Committee of the House of Lords, who decided that his application for leave to appeal should be refused.

APPENDIX TWO

The Assets Recovery Process

Criminal Confiscation

1 Criminal confiscation is the primary method of recovering the proceeds of crime and must be considered as the first option. Law Enforcement Agencies refer cases to the Agency for adoption or assistance. Cases are referred for adoption if the referral partner has, or is likely to secure, a criminal conviction for an acquisitive crime but is unable to carry out the criminal confiscation themselves. Cases are referred for assistance if the offences occurred before the Proceeds of Crime Act 2002 came into force. After some preliminary investigations, the criminal Financial Investigator makes a recommendation to the Case Referral Group as to whether the case should be adopted by the Agency.

2 If the case is adopted, the confiscation investigation is normally run concurrently with the criminal investigation; alternatively it can follow criminal conviction. The investigation sets out to identify the benefit of the crime and the assets available for confiscation. Under the Proceeds of Crime Act 2002 (POCA) certain crimes are considered to be indicative of a criminal lifestyle. These crimes include certain drugs, counterfeiting, sexual and blackmail offences. If the defendant is assumed to have a criminal lifestyle, any property transferred in the previous six years or held at the time of conviction and any expenditure incurred in the previous six years is assumed to be the benefit of crime if it is free from other interests and unless it can be shown otherwise.

3 At or after the criminal hearing, the Court will set a timetable for the criminal confiscation investigation. This will set out when the Agency needs to provide the section 16 report (in the case of post-POCA cases) or section 73 report (in the case of pre-POCA cases), how long the defence has to respond to the report and when the confiscation hearing will be held. The section 16 or 73 reports set out the benefit of the crime and the available assets. If it agrees with the information in the section 16 or 73 report, the Court will make a Confiscation Order at the hearing setting the amount to be paid, a timetable for payment and a default sentence to be served if the Order is not paid. The Confiscation Order will be for the lesser of the benefit of the crime and the available assets.

4 If the Order is less than the benefit, the case can be revisited, if it is later discovered that the defendant has sufficient assets that were either unknown to the Court at the time of the Confiscation hearing or are subsequently acquired by the defendant.

Civil Recovery

5 Civil recovery can be sought where a criminal confiscation is not possible. Civil recovery is focussed on the assets that result from the proceeds of crime rather than the individual, therefore it is possible to recover assets from individuals who have themselves not committed a crime if the assets are derived from the proceeds of crime. Referral partners refer cases to the Agency for civil recovery if:

- They are unable to obtain a criminal confiscation for the crime giving rise to the assets. This may be because they failed to secure a conviction, a Confiscation Order or the respondent is unable to be prosecuted because, for example, they have fled the country or are deceased;
- There are assets that evidence supports are linked to an acquisitive crime; and
- The assets are valued at £10,000 or over.

6 The Agency carries out some provisional checks, usually to ascertain the value of the assets, e.g. checks at the Land Registry to ascertain whether there is a mortgage on a property. The Financial Investigator will then make a recommendation as to whether the Case Referral Group should adopt the case.

7 If the case is adopted the Financial Investigator will continue to investigate the assets, usually covertly. This will involve, for example, obtaining Production Orders from the High Court to obtain information from financial institutions.

8 When it has sufficient evidence of the criminality and the link to the assets, the Agency will apply to the High Court for an Order to freeze the assets. Usually the Agency applies for a Property Freezing Order and, if granted, it continues to investigate the assets. If the assets require more complex management, the Agency may apply for an Interim Receiving Order and nominate Receivers. If this is granted the Receivers will carry out further investigation of the assets. Receivers prepare reports on the assets and their link to the criminality.

9 The Financial Investigator, in conjunction with the case lawyer, prepares the application for a Recovery Order, which is lodged in Court and served on the respondent. The case proceeds to hearing, where the Court either makes a Recovery Order for all or part of the property that is the subject of the Agency's claim or dismisses the Agency's claim. It is possible for the respondent and the Agency to negotiate a settlement at any time prior to the making of a Recovery Order.

Taxation

10 Initially the Agency could only consider taxation if civil recovery was not possible. The guidance has since been amended to allow tax and civil recovery to be considered at the same time. The Agency now makes a judgment as to which course of action will be most effective including an option for parallel action.

11 The Agency must have reasonable suspicion that the individual's income, gain or profit has come from a criminal source. It investigates the tax history and quantifies estimated income for previous years, up to a maximum of 20 years, from the evidence supplied by law enforcement agencies and their own investigations. The Agency issues an estimated assessment for each year where there is tax outstanding. If the person accepts the tax liability they can negotiate settlement with the Agency. This process follows the HM Revenue & Customs guidelines and prevents significant legal costs. In cases of dispute the Taxation Special Commissioners will sit to determine the liability.

APPENDIX THREE

Review of targets

| Topic | Target in 2003-04 | Developments in the nature of the target | Progress against the target to date |
|---------------------------|---|--|---|
| Disruption of criminality | <p>1 In 2003-04, to disrupt at least 35 criminal enterprises at all levels of criminality through the institution of taxation or civil recovery proceedings led by the Assets Recovery Agency (ARA), or confiscation action by law enforcement and prosecuting authorities.</p> | <p>In 2004-05, target remained unchanged to disrupt 35 criminal enterprises at all levels of criminality but was split between London (25) and Belfast (10). Target also includes ARA-led criminal confiscation. Sub-targets were also set, including on the number of cases to be adopted, the value of assets to be disrupted and the value of certain other orders. Target in 2005-06 is to disrupt 70 criminal cases at all levels of criminality across the Agency (Belfast to disrupt 25 out of the targeted 70 criminal enterprises). Some sub-targets are changed in 2005-06, and include targets on the progression of cases already under investigation.</p> | <p>ARA does not report progress against the overall target to disrupt 70 criminal enterprises. Rather, progress against sub-targets is reported. ARA has exceeded its sub-target for the disruption of criminal enterprises to the value of £25 million by restraining £101.6 million of assets. Progress at 30 September 2006 however shows that ARA is not on course to meet its restraint target for 2006-07. ARA failed to meet sub-targets on the value of Recovery Orders (£4.9 million against a target of £22.5-27.5 million) and failed to complete 100 per cent of cases under investigation on 1 April 2005 (83 per cent completed). The Belfast office also failed to adopt the target number of cases (22 adopted against a target of 32). ARA is also not on course to meet its sub-target on the value of Confiscation Orders.</p> |
| Asset recovery receipts | <p>2a To make a substantial contribution towards the achievement of the 2004-05 systematic target of doubling to £60 million asset recovery receipts.</p> <p>2b Assist partner law enforcement and prosecuting agencies to realise confiscation receipts to the value of at least £5 million in 2003-04.</p> <p>2c In 2004-05 realise asset recovery receipts in ARA cases to the value of at least £10 million.</p> | <p>These targets were dropped in subsequent years and incorporated into the target on becoming self-financing.</p> | <p>These targets were dropped in subsequent years and incorporated into the target on becoming self-financing.</p> |

| Topic | Target in 2003-04 | Developments in the nature of the target | Progress against the target to date |
|---|--|--|--|
| Asset recovery receipts <i>continued</i> | 3 To become effectively self-financing no later than 2005-06, and to increase the ratio of receipts to operating cost by at least five per cent a year thereafter. | Target became more specific in 2004-05: Recover an amount equivalent to 60 per cent of ARA budget. There were also sub-targets on the effective enforcement of all Orders and following Government accounting guidelines. In 2005-06, the target was to recover an amount equivalent to 100 per cent of ARA budget. There were sub-targets on the value of Recovery Orders and tax assessments and on following Government accounting guidelines. | The Agency does not report progress against the overall target to become self-financing, but reports progress against sub-targets. The most significant of these to the overall target to become self-financing is the sub-target to obtain Recovery Orders or voluntary settlements and issue tax assessments to the minimum value of £15.5 million (the ARA baseline budget). Recovery Orders/voluntary settlements and tax assessments to the value of only £4.4 million were obtained. ARA has secured a substantial recovery in 2006-07 so may meet its Recovery Order target in this financial year. |
| Confidence in the Agency's work | <p>4 To maintain public confidence in the professionalism and integrity of the work of the Agency.</p> <p>5 To maintain the confidence of stakeholder organisations, the judiciary, and the legal profession in the professionalism and integrity of the Agency.</p> | In 2004-05, these targets became one: Maintain levels of confidence as established in baseline surveys. This target was unchanged in 2005-06. Sub-targets were introduced in 2004-05 in relation to improving communications; these were dropped in 2005-06 and more specific targets in relation to the baseline survey were introduced. | A survey in 2005-06 showed that, as in 2004-05, 85 per cent of respondents in England and Wales felt that the Agency should have its powers. There was a two per cent increase in the number of respondents in Northern Ireland who felt that the Agency should have its powers. ARA therefore marginally failed to meet the sub-target to increase from the 2004 baseline the proportion of the population in England, Wales and Northern Ireland agreeing that the Agency should have its powers. The survey did however record a two per cent decrease in England, Wales and Northern Ireland in the proportion of the population who are concerned that the Agency may abuse its powers (in line with the sub-target). |
| Training Financial Investigators | 6 To deliver high quality training to Financial Investigators within and outside the law enforcement community, including the training of 400 investigators during 2003-04, accrediting them where appropriate. | In 2004-05 ARA introduced more specific targets on the number of courses to be delivered and dropped the target on the number of investigators. There was a new target on the provision of training places at Regional Assets Recovery Teams (RARTs) and Recovered Assets Incentivisation Fund (RAIF)-funded Financial Investigators. There was also a new target on the negotiation and implementation of awarding bodies certification. Targets in 2005-06 remain broadly similar to those in 2004-05, with increasing numbers of courses to be delivered (80 versus 45 in 2004-05) and fewer RAIF-funded training places (65 instead of 72 in 2004-05). | ARA met its sub-targets on the number of courses to be delivered and the number of training places funded by the Recovered Assets Incentivisation Fund. It did not meet its target to provide a matching number of ARA-funded places. |

APPENDIX FOUR

Methodology

Case review

1 We carried out an analysis of the Agency’s case management information to obtain an overview of the totality of cases referred to the Agency. The extent of this analysis was limited by the quality of the Agency’s databases. We analysed the information to assess the average time taken to recover assets, the numbers of cases at each stage of the case process and the amounts restrained and recovered.

- 2** We carried out an in depth review of 23 per cent of cases to:
- gain an understanding of the Assets Recovery Agency’s processes for dealing with cases and managing its relationships with partners;
 - gather evidence on the efficiency and effectiveness of the Agency’s systems and the reasons for delays in progressing cases; and
 - develop recommendations to increase the Agency’s impact.

We randomly selected cases to represent both the London and Belfast Offices and all three case types. Our sample included half of all completed cases to get an overview of the entire process. This resulted in the following sample of cases (Figures 17 and 18).

17 The National Audit Office’s sample of cases

| | London Office | | Belfast Office | | Unknown Office ¹ |
|--------------------------------|---------------|------------|----------------|-----------|-----------------------------|
| | Cases | Sample | Cases | Sample | Cases |
| Criminal Confiscation | 196 | 42 | 5 | 1 | |
| Civil Recovery | 316 | 72 | 144 | 30 | |
| Taxation | 38 | 15 | 0 | 0 | |
| Unknown case type ¹ | 2 | | 1 | | 5 |
| Total sample | | 129 | | 31 | |
| Total cases | 552 | | 150 | | 5 |

Source: National Audit Office

NOTE

¹ The Agency’s database did not include information on these cases.

18 Information collected by the National Audit Office on the sampled cases

For each case we obtained information on all stages the case passed through and the elapsed time at each stage. We analysed the following data:

- Date entered onto system
- Type of case
- Reason for referral
- Total fees charged
- Complexity of case
- Referring agency
- Stage of referral
- Current stage of progression of case
- Criteria for acceptance of referral
- Documents included in case preparation
- Stages at which the case was reviewed by management
- Success (or otherwise) of completed cases
- Feedback that was given to the referring body
- Delays attributable to each internal stage
- Delays attributable to the legal process
- Delays attributable to awaiting action either by the Agency or a third party
- Whether there was any impact on assets recovered due to delays in the system
- Total value of assets frozen or recovered

For each unadopted case, we assessed whether the decision taken not to adopt the case was taken properly with regards to the criteria for acceptance. By interviewing the referring partners we also assessed whether the feedback mechanisms to referring bodies are sufficient, and whether these could be improved.

Source: National Audit Office

Review of referral rates

3 To explore the relationship between the Agency and its referring partners, we carried out telephone interviews with partner agencies that had referred to the Agency and potential partners who had not referred any cases. We interviewed by telephone 30 referral partners who had referred 34 of the cases in our sample review. Where possible we interviewed the individual that referred the case or, where there was one, the referral partner's point of contact with the Agency. We also interviewed in person individuals who are the point of contact with the Agency in the Police Service of Northern Ireland (PSNI), which referred 14 of the cases in our sample, and 99 of the 707 cases referred by the end of August 2006. The interview with representatives from PSNI covered issues surrounding all cases referred by PSNI, whilst interviews with other referral partners covered only the specific cases in our sample. Our interviews with referral partners effectively covered eighteen per cent of the total number of cases referred to the Agency.

4 We also interviewed 58 potential referral partners who had not referred cases, including 39 local authorities and 13 Trading Standards Offices selected at random. We initially contacted the benefit fraud sections of the local authorities, as these are most likely to refer cases, and the heads of the individual Trading Standards Offices and allowed them to refer us to the most appropriate individual. We analysed the reasons that referral partners gave for the extent of their referrals, how they refer cases and the extent and format of their liaison with the Agency.

Census of financial investigation training attendees

5 At the start of our fieldwork, the Agency was about to conduct a census of attendees on the courses run by the Financial Investigation Centre to establish how many currently use the skills learnt, reasons for course attendance and views on the quality and timing of training. We analysed the results of this census. Despite the census being mandatory for accredited Financial Investigators, the Agency had received only 1,028 responses by the deadline, a response rate of 31 per cent, based on 3,198 registered users. Given the low response rate, we analysed the Agency's internal information and with their assistance collected supplementary

evidence from other organisations to establish why registered users failed to complete activities required for their accreditation. Our analysis of the results focused on determining the accuracy of information held by the Agency and whether those not completing Continuing Professional Development remained active Financial Investigators.

Review of the electronic case management system

6 We reviewed the Agency's case management system through our case file review, our discussions with Financial Investigators, lawyers, and other staff and our review of the Agency's data on its cases. We assessed:

- the extent to which staff input information onto the system;
- the way in which different staff use the system;
- the extent to which the Agency uses data produced by the system; and
- the quality of the management data produced by the system.

Financial analysis

7 We were unable to identify the full costs of progressing cases since there was no formal time recording system. We reviewed the elapsed time for cases at each stage from referral to receipt of assets. We also examined the external costs of progressing cases, in particular the cost of receivers' fees to identify whether these could be better managed.

8 Given the lack of data to date, together with the randomness of the amount and time of receipts, we were unable to develop a statistical model to predict the Agency's future receipts. We did, however, analyse the level of receipts to date, together with the profile of cases "in the pipeline" to form a view as to the reasonableness of the Agency achieving self-financing by 2009-10.