



National Audit Office

Report

by the Comptroller
and Auditor General

Criminal Justice System

Confiscation orders

Cost estimate methodology

DECEMBER 2013

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Our public audit perspective helps Parliament hold government to account and improve public services.

The National Audit Office scrutinises public spending for Parliament and is independent of government. The Comptroller and Auditor General (C&AG), Amyas Morse, is an Officer of the House of Commons and leads the NAO, which employs some 860 staff. The C&AG certifies the accounts of all government departments and many other public sector bodies. He has statutory authority to examine and report to Parliament on whether departments and the bodies they fund have used their resources efficiently, effectively, and with economy. Our studies evaluate the value for money of public spending, nationally and locally. Our recommendations and reports on good practice help government improve public services, and our work led to audited savings of almost £1.2 billion in 2012.

Cost estimate methodology

1 This document accompanies *Criminal Justice System: Confiscation orders*, a report published by the Comptroller and Auditor General in December 2013. It adds further details to the description of the cost estimate methodology included in the main report in Appendix Two.

2 The report examined how well confiscation orders are managed, both at a strategic level and at each step in the process from identification to collection, against the inherently difficult context in which the processes take place. While looking at the system as a whole, it also explored the performance of individual bodies involved.

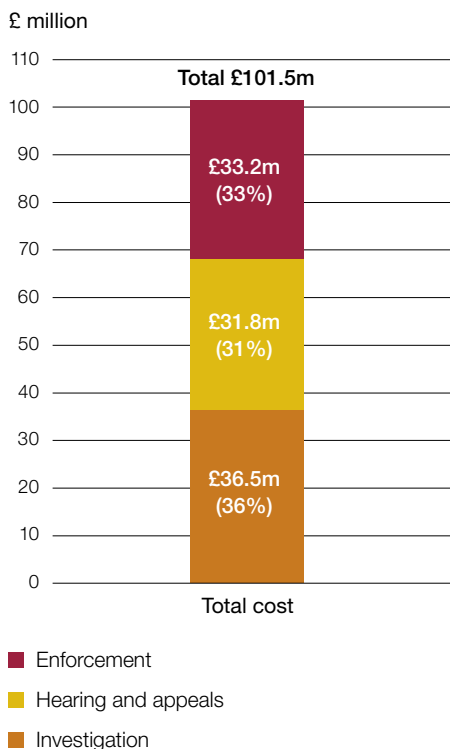
3 In **Figure 1** overleaf (Figure 2 in the main report) we estimated that the annual cost of administering confiscation orders in England and Wales is £102 million, covering all stages from investigation through to enforcement. We then make reference to the breakdown of this total at various points in the report.

4 We developed this estimate through a detailed costing exercise, gathering cost data from all the key bodies involved with confiscation activity. As part of this work, we found that cost data was often limited, particularly around the time spent by financial investigators, prosecutors and judges on confiscation cases, and therefore made a number of assumptions, which we outline below.

Figure 1

Estimated annual cost of administering confiscation orders in England and Wales

We estimate the annual cost is £102 million



Notes

- 1 The investigation stage relates predominantly to the costs of financial investigators working on confiscation orders in the main law enforcement agencies (see Part Three of the main report). We do not include the cost of the criminal investigation in this estimate.
- 2 The cost of hearings and appeals includes an estimated £20.8 million of legal aid costs, with the remainder covering judicial time and costs of the courts.
- 3 The cost of enforcement includes £18.5 million for keeping offenders in prison for non-payment; with the remainder covering the cost of administration and collection by the enforcement agencies (see Part Four of the main report).

Source: National Audit Office analysis (see Appendix Two of the main report)

Investigation

5 We estimated that the annual cost of the investigation stage is £36.5 million, from the point specialist financial investigators ('confiscators') are brought in to develop the case for confiscation up to, but not including, the confiscation hearing. The costs at this stage are predominantly the time of these confiscators in the various law enforcement units, with the recognition that not all confiscators will work full time on confiscation cases.¹ We exclude the costs of law enforcement agencies conducting the criminal investigation. Our sources and other key assumptions for this stage are as follows:

- **Police forces** – the territorial police forces in England and Wales employ the majority of confiscators (900 at September 2013). We have used an average full salary cost of a police constable (including national insurance and pension) and 40 per cent time commitment. The latter is based on estimates from our engagement with law enforcement agencies. We have also used an average for direct overheads, based on more detailed cost information from other law enforcement agencies.
- **National Crime Agency** – the agency employs just over 100 confiscators and we estimated the cost of these using similar assumptions to police forces, with the difference being salary costs are based on an average financial investigator salary cost rather than a police constable. We have also included the total costs of the Proceeds of Crime Centre, who are responsible for training financial investigators, as sourced from the Serious Organised Crime Agency² financial systems.
- **Regional asset recovery teams** – there are nine of these multi-agency units across England and Wales, funded by the Home Office directly through the Asset Recovery Incentivisation Scheme. Costs are sourced from internal 2012-13 year-end financial reporting, including full salary costs and overheads.
 - This excludes costs of staff who have been seconded from other bodies, but whose costs are paid for by these parent bodies (for example Crown Prosecution Service and HM Revenue & Customs).
 - The time spent on confiscation varied from team to team with each varying their resources between confiscation and money laundering and teams noted it was difficult to provide an accurate split of hours between these activities. Where teams provided an estimate, we used these directly; otherwise we used the average of the estimates we obtained.

1 'Confiscators' are financial investigators who undergo additional training to enable them to use the full powers of the 2002 Act (see Part Three of the main report). Furthermore, confiscators may also assist or lead on criminal investigation cases and other asset recovery work in addition to confiscation activity.

2 The Serious Organised Crime Agency was disbanded in October 2013 and replaced by the National Crime Agency.

- **HM Revenue & Customs** – costs sourced from its finance function including full salary costs, estimates for travel and subsistence and training and other costs being funded by the Asset Recovery Incentivisation Scheme, including specialised software. Costs relate directly to confiscation activity only and it also includes non-confiscator staff costs supporting this work.
- **Department for Work & Pensions** – costs sourced from its finance function on its financial investigation unit, including full salary costs, management and direct non-staff costs.
- **Serious Fraud Office** – costs sourced from its proceeds of crime division and which are specific to pre-enforcement work, including full salary costs, management costs, travel and subsistence, expert fees and costs in imposing restraint orders.
- **Home Office Central Authority** – responsible for managing overseas requests and assistance, costs sourced from Home Office financial system and estimates from staff as to proportion of time spent on confiscation activity.

6 We have excluded the costs of confiscators included in other bodies such as Scottish and Northern Irish constabularies as the report focused on confiscation activity in England and Wales. We have also excluded local authorities, who only have a few confiscators each, and who may request the assistance of other law enforcement agencies.

Confiscation hearing and appeals

7 We estimated that the annual cost of confiscation order hearings, including adjournments and appeals, is £31.8 million. The majority of costs relate to legal aid provided to offenders to defend themselves during the hearing and any subsequent appeals to the order imposed. The rest relates to court administration, judicial costs and prosecution costs. Our sources and assumptions for this stage are as follows:

- **Legal aid** – costs sourced from an estimate by the Legal Aid Agency and the HM Courts and Tribunals Service's national taxing team for claims for representation in confiscation proceedings between August 2012 and July 2013. We have also included an estimate of the Legal Aid Agency's and national taxing team's cost of administering the claims, based on full salary costs and full-time equivalency of the staff involved as provided by the agency.

- **Court administration and judicial costs** – covering the cost of the confiscation hearings, judges' preparation time and appeals:
 - We estimated the cost of a confiscation hearing based on the costs sourced from HM Courts & Tribunals Service's analysis of its full costs by activity; and the number of trials that have taken place at Crown Courts, including confiscation hearings and the length of each hearing.
 - We estimated the cost of judges preparing for a hearing, using full salary costs and assume that on average judges spend an hour prior to the hearing preparing for the cases. This preparation time is based on interviews with judges and the average length of a confiscation hearing.
 - We also included the direct court time cost of appeals, based on HM Courts & Tribunals Service's estimate. However, this is likely to be an underestimate as there is incomplete information on the number of appeals that have occurred and it excludes overheads. We have also excluded the cost of hearings for variations, certificates of inadequacies and for third party claims because of a lack of data in these areas.
 - **Prosecution costs** – annual costs, including full salary costs and related direct expenditure, sourced from financial reporting by the Crown Prosecution Service's and the Serious Fraud Office's proceeds of crime unit.
- 8** There will be some confiscator time involved with liaising with the prosecutors prior to the hearing and on the day of the hearing itself, but we have included those costs as part of the investigation stage.

Enforcement

9 We estimated that the annual cost of enforcement is £33.2 million. The majority relates to prison costs for offenders serving default sentences for non-payment, but also includes collection and administration activity and enforcement hearing costs. Our sources and key assumptions for this stage are as follows:

- **Prison costs** – we have estimated this based on the annual prison costs per prisoner from the National Offender Management Service, the number of prisoners currently serving their default sentence and the average length of time of a default sentence. The latter two parts to this estimate are taken from data in the Joint Asset Recovery Database (JARD) relating to all orders up to 6 September 2013.
- **Collection and administration activity** – annual costs, including full salary costs, sourced from financial reporting by HM Courts & Tribunals Service, the Crown Prosecution Service's and the Serious Fraud Office's proceeds of crime unit. We have also included:
 - the cost of a small HM Revenue & Customs enforcement unit, which is fully funded by the Asset Recovery Incentivisation Scheme;
 - the Home Office Central Authority costs; and
 - the costs of maintaining JARD. This is sourced from the National Crime Agency's proceeds of crime centre financial reporting.
- **Receiver fees** – payments to private receiver companies in 2012-13 sourced from our analysis of JARD.
- **Enforcement hearings** – we have estimated this based on the average length of an enforcement hearing at a magistrates court and the number of hearings each year. In both cases we have used HM Courts & Tribunals Service estimates, which are supported by our own observations. We then combined the total annual hearing time with the cost per sitting hour, based on HM Courts & Tribunals Service's analysis of its full costs by activity and total sitting hours.



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