



National Audit Office

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## **Report**

by the Comptroller  
and Auditor General

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## **Criminal Justice System**

# Confiscation orders: progress review

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National Audit Office

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Criminal Justice System

# Confiscation orders: progress review

Report by the Comptroller and Auditor General

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Sir Amyas Morse KCB  
Comptroller and Auditor General  
National Audit Office

9 March 2016

This report reviews the progress that the criminal justice bodies have made in reforming the confiscation orders system since early 2014.

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## Key facts

**£155m**

collected by enforcement agencies from confiscation orders in 2014-15 (£133 million in 2012-13)

**£1.61bn**

total debt outstanding from confiscation orders at September 2015 (£1.46 billion at September 2013)

**£203m**

HM Courts & Tribunals Service estimate of realistically collectable debt – 2014-15 Trust Statement (£177 million in 2012-13)

2014-15	change from 2012-13	
5,924	-468 (7% fall)	confiscation orders imposed
1,203	-165 (12% fall)	number of restraint orders used to freeze offenders' assets
At September 2015	change from September 2013	
45%	+4 percentage points increase	overall enforcement rate of all confiscation orders imposed
22%	+4 percentage points increase	enforcement rate for confiscation orders of £1 million or more
1,358	-84 (6% fall)	number of accredited financial investigators training or trained to use the full range of confiscation order powers
5%	the proportion of debt outstanding of the top 10 orders by value that enforcement agencies estimate is collectable (£15.5 million out of £285 million) as at September 2015	
<b>£300 million</b>	HM Courts & Tribunals Service's estimate of the value of assets belonging to offenders with confiscation orders which are overseas	
<b>£100 million</b>	our estimate of the cost of administering the end-to-end confiscation order process	

### Note

1 Figures from 2012-13 as reported in our previous study: Comptroller and Auditor General, *Criminal Justice System: Confiscation Orders*, Session 2013-14, HC 738, National Audit Office, December 2013.

# Summary

**1** In December 2013 we reported in *Criminal Justice System: Confiscation Orders* on the government's administration of confiscation orders, concluding that the process was not working well enough and did not provide value for money.<sup>1</sup> Confiscation orders are the main way through which the government carries out its policy to deprive criminals of the proceeds of their crimes. The government's intention is to deny criminals the use of their assets and to disrupt and deter criminality, thereby reassuring the public that crime does not pay.

**2** In January 2014 the Committee of Public Accounts (the Committee) held a hearing into confiscation orders based on our report and then published a critical report of its own in March 2014.<sup>2</sup> The Committee's report similarly concluded that the various bodies involved in confiscation orders had failed to put an effective system in place, that not enough confiscation orders were being imposed, and that not enough was being done to enforce orders once they had been imposed.

**3** This report reviews the progress that the criminal justice bodies have made in reforming the confiscation orders system since early 2014. It considers the barriers that are still preventing further and faster progress, and how they can be overcome. It reviews specifically progress made in:

- identifying and investigating orders (Part One);
- enforcing orders (Part Two); and
- strengthening governance and strategic coherence (Part Three).

## Background

**4** Courts impose confiscation orders only on convicted offenders, with the amount of the order based on 'criminal benefit'. The 2002 Proceeds of Crime Act (the 2002 Act), which is the main legislation underpinning confiscation,<sup>3</sup> defines criminal benefit either in terms of a specific crime, or based on a judgment that the offender has lived a criminal lifestyle. In the latter case, assets and expenditure over the previous 6 years can be included in an order, and the burden is on the offender to prove the authorities' estimates are wrong. This tough legislation underscores successive governments' ambitious goals over the past 15 years to deprive criminals of their proceeds of crime.

<sup>1</sup> Comptroller and Auditor General, *Criminal Justice System: Confiscation Orders*, Session 2013-14, HC 738, National Audit Office, December 2013.

<sup>2</sup> HC Committee of Public Accounts, *Confiscation orders*, Forty-ninth Report of Session 2013-14, HC 942, March 2014.

<sup>3</sup> The 2002 Act also introduced other means of asset recovery including civil recovery, cash forfeitures and tax recovery on criminal proceeds.

**5** The Home Office is responsible for the government's confiscation policy, but operationally a number of other bodies across the criminal justice system are responsible for investigating, prosecuting and enforcing confiscation orders (**Figure 1**). These bodies coordinate their work through various formal and informal agreements in conjunction with a joint 'best practice guide' on implementing the 2002 Act. The overall system is governed by the multi-agency Criminal Finances Board (the Board). This is made up of representatives from many of the bodies involved and is chaired by a Home Office minister. We estimate that the bodies involved together spend about £100 million on administering confiscation orders each year.

### **Previous report findings and recommendations**

**6** In practical terms only a very small proportion of criminal gains can ever be confiscated. This is because much crime is not reported, criminal gains are often disposed of quickly or transferred out of reach, and many criminals are determined to keep as much as they can regardless of the sanctions made against them. In practice, therefore, confiscating assets often requires law enforcement officers to show skill, determination and persistence.

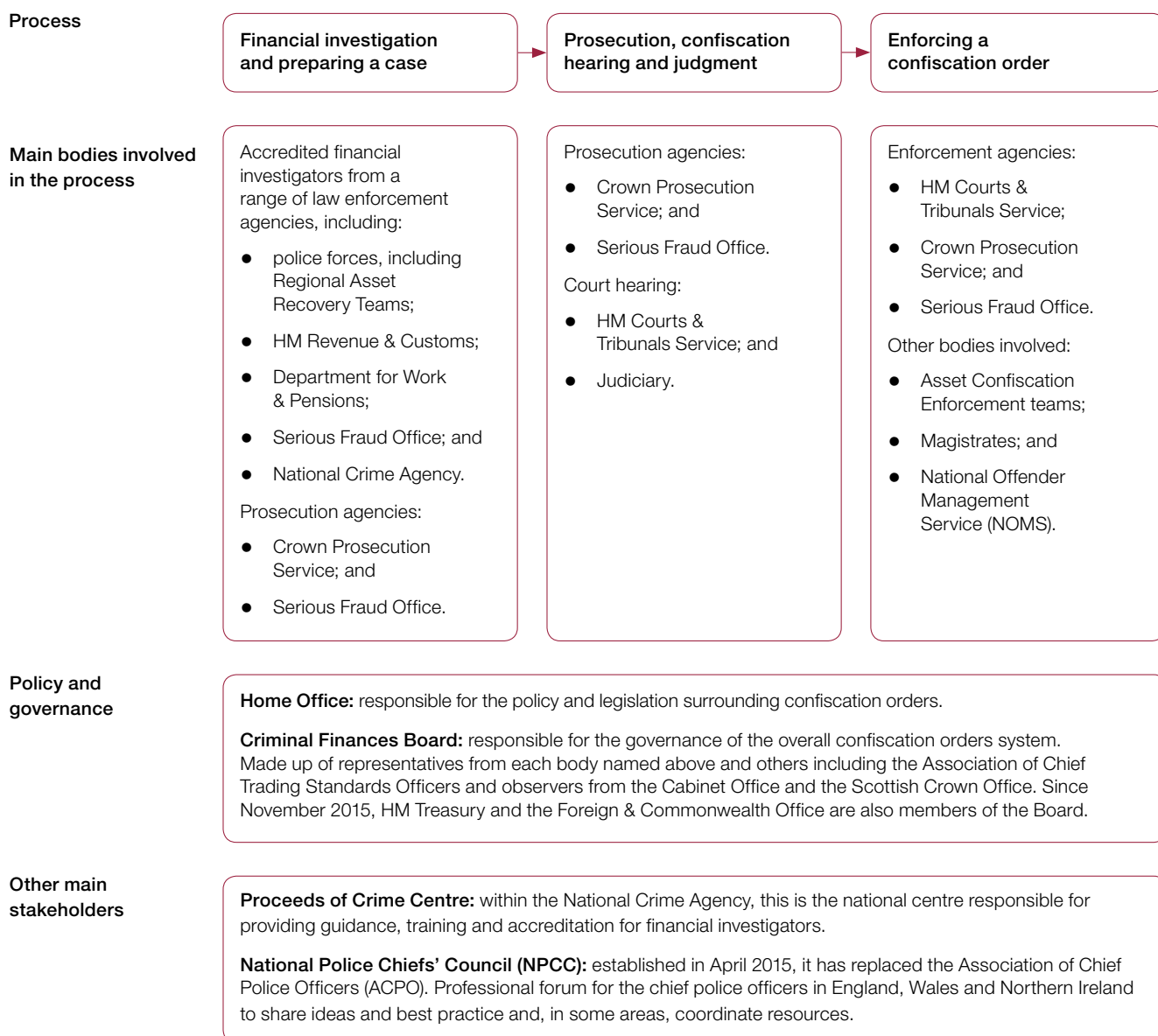
**7** Nevertheless, in our 2013 report, we found that the actual amount confiscated in 2012-13 amounted to an estimated 26p in every £100 of criminal gains generated. We concluded that this was too small, given the tough legal framework, ambitious government goals and weaknesses in a number of areas across the confiscation order process. In particular we identified:

- no coherent overall strategy for confiscation orders with no agreed success measures;
- a flawed incentive scheme and weak accountability;
- a lack of good performance data or benchmarks to support decision-making;
- insufficient awareness of proceeds of crime and its potential impact;
- operational issues such as inaccurate and incomplete data, outdated ICT systems and poor joint working between the different bodies; and
- ineffective sanctions for non-payment.



**Figure 1**

## Main bodies involved in administering confiscation orders

**Notes**

- 1 Further details on the bodies involved can be found in Appendix Three.
- 2 Financial investigators are also expected to provide support during the confiscation hearings and to help with enforcement.
- 3 Other bodies include the **Legal Aid Agency**, which manages legal aid for offenders subject to confiscation proceedings.

Source: National Audit Office analysis

8 The Committee identified similar issues in its report of March 2014, finding overall that “poor implementation of the confiscation order scheme has severely hampered its effectiveness”. In both its January hearing and its subsequent report the Committee expressed its expectation that the administration of confiscation orders would be urgently transformed, so that bodies would make much more use of orders, and their enforcement rates would be considerably higher. The Committee’s recommendations were similar to those in our report, covering six areas across the system:

- better governance and strategy;
- more use and awareness of orders;
- better enforcement operations;
- more effective sanctions;
- better performance and cost information; and
- a more effective incentive scheme.

Appendix Four sets out both the Committee’s and our recommendations in full.

9 The government accepted all the Committee’s recommendations in June 2014, stating that necessary changes would be made in 2014 and 2015.<sup>4</sup> The main vehicle for change was to be a new Criminal Finances Improvement Plan, published in June 2014. This plan set out 11 objectives covering the whole administrative process, and the government set a target of March 2015 for its implementation (see Appendix Five). The bodies making up the Board took collective responsibility to achieve this, with different bodies taking ownership for implementing individual sub-objectives. The Board has since revised this plan in June 2015 with additional objectives and revised milestones.

## **Key findings**

### Overall progress against recommendations

**10 The criminal justice bodies involved have made some progress against most of the Committee’s recommendations, but in only one have they made the progress the Committee expected, and the system has not been transformed.**

Despite agreeing to implement all the Committee’s six recommendations by the end of 2015, we consider that the criminal justice bodies have only fully addressed one of them: strengthening the sanctions for non-payment. The remaining areas are at best only addressed partially. Against their own timetable, the bodies on the Board have not met the target date of March 2015 for implementing the original Criminal Finances Improvement Plan, which acted as the main vehicle for change.

The rest of the key findings, along with Appendix Four, gives more detail on the individual recommendation areas.

4 HM Treasury, *Treasury Minutes*, Cm 8871, June 2014.

## Governance and strategy

**11 The Criminal Finances Improvement Plan has helped galvanise efforts to improve the enforcement of orders since its launch in 2014, but it does not set out agreed success measures or make clear the priority of the government's objectives for confiscation.** We found in 2013 that bodies pursued different objectives for confiscation, for example maximising income or disrupting crime, leading to negative consequences such as inconsistency in the crimes or orders pursued. We and the Committee therefore recommended a new strategy should prioritise objectives to make the best use of scarce resources. The Home Office has decided, however, that central direction on such matters would distort operational decision-making and that decisions on the use of confiscation orders should be left to local law enforcement agencies (paragraphs 3.8 to 3.12).

**12 Some improvements have been made to governance and accountability of confiscation orders, but structures are still not strong enough to bring about the significant change that the system requires.** The ability to use published financial statements to hold individual bodies to account has improved since 2013, with more detail in individual bodies' accounts about their activity and areas of enforcement responsibility. Following also our recommendation for more effective governance, a Home Office minister now chairs the Board, which itself now has a wider membership, amounting to more than 20 representatives from across government. But the Board reports to a more senior board and has an oversight-only role, which does not allow it to make strategic changes. Additionally, financial statements still do not contain information on confiscation order cost and performance, which could further help transparency and therefore accountability (paragraphs 3.3 to 3.7).

## Use and awareness of orders

**13 The Board has not met its commitment to increase the profile of confiscation orders among law enforcement agencies, particularly police forces.** Despite being an objective in the Criminal Finances Improvement Plan, the Board recognises that it has made little progress in raising awareness of confiscation orders. For example, the Board finally agreed its communications framework in June 2015, 10 months after the Home Office had planned. The Board has also not issued guidance on confiscation order selection criteria to help bodies identify all potential confiscation order cases. It had promised to do this by the end of 2014 in response to the Committee's recommendation. Greater awareness would encourage more use of confiscation orders, but use has decreased: in 2014-15, 5,924 orders were imposed compared with 6,392 in 2012-13, a 7% reduction (paragraphs 1.2 to 1.4 and 1.8 to 1.13).

**14 Competing priorities have also affected the push to increase confiscation**

**order use.** More widely, the government's aspiration for law enforcement agencies to treat confiscation orders as a priority has become increasingly difficult to achieve for many bodies. For example, most police forces do not consider asset recovery a priority compared to other areas of law enforcement, such as tackling child abuse and countering extremism. The Board is concerned that fewer convictions for financially motivated crimes may affect the number and value of future confiscation orders. The Home Office has also stopped protecting the funding for the police's regional asset recovery teams (paragraphs 1.6 and 1.7).

Enforcement operations

**15 The criminal justice bodies have met the Committee's recommendation to focus on better enforcement of existing orders, particularly on priority cases.**

The bodies' improved understanding of the reasons for poor enforcement of orders, and better multi-agency joint working with new dedicated enforcement teams, have together helped bodies improve overall enforcement rates over the past 2 years. Between them the bodies collected £155 million in 2014-15, the highest amount collected to date, continuing the trend of year-on-year increases. This compares with £133 million in 2012-13, which is an increase of more than 16% (£22 million) in 2 years (11% after inflation). The enforcement rate against all orders has also increased from 41% to 45% in the same period (paragraphs 2.3, 2.4 and 2.6 to 2.8).

**16 Law enforcement and prosecution agencies, however, have not increased their use of early action, with fewer restraint orders used and fewer financial investigators available than 2 years ago.** In our previous report we identified the link between early action and successful enforcement, and the Committee recommended that law enforcement agencies should work together to ensure early use of both financial investigators and restraint orders. But there are now 6% fewer confiscators (fully accredited financial investigators) than there were 2 years ago, which has reduced the capacity needed to help recover high-value orders. The use of restraint orders to freeze an offender's assets has also fallen by 12% over the same period and 36% since 2010-11, although in 2015-16 this trend has started to reverse (paragraphs 1.15 and 2.21).

**17 More could be done to reduce existing confiscation order debt, which has risen by £158 million (11%) to £1.61 billion in the past 2 years.** Much of the debt now relates to orders at least 5 years old and enforcement agencies have low expectations of recovery. Overall, in summer 2015, HM Courts & Tribunals Service assessed that only £203 million (12%) of the total debt was realistically collectable. The criminal justice bodies are putting in place changes that may assist in higher recovery of both new and existing orders, including greater engagement with the financial services sector and increased focus on overseas assets. There is, however, potential for even more recovery if there is further overseas action and changes in other parts of the law, and also better judicial training (paragraphs 2.5, 2.11 to 2.16, 2.20 and 2.21).

## Sanctions

**18 The Home Office, working with the Ministry of Justice and others, has strengthened the sanctions regime for non-payers of confiscation orders.** In its 2014 report the Committee concluded that the prevailing sanctions regime did not work and should be reformed. The Home Office has subsequently introduced new legislation, the 2015 Serious Crime Act, which contains longer default prison sentences for non-payers as well as stronger discretionary powers for judges, such as the ability to impose travel bans. With the legislation enacted in summer 2015, it is still too early to conclude whether these changes will be successful. The mandatory application of 8% penalty interest on unpaid order amounts, which we concluded in 2013 was ineffective, has not changed. Total accrued penalty interest on all orders now stands at £471 million, 29% of the total outstanding debt (paragraphs 2.9 and 2.10).

## Performance information

**19 The criminal justice bodies have made limited progress improving performance and cost information, although basic data now contain fewer errors.** Despite the Committee's identification of the weaknesses two years ago, criminal justice bodies still lack the information required to demonstrate the impact of confiscation orders on criminal justice outcomes, such as disrupting crime. Individual bodies have made some progress but without good performance and cost information they cannot make cost-effective assessments on what actions to take in each case. Ongoing improvements to ICT systems, including in particular the Joint Asset Recovery Database, have ensured that basic data on confiscation order activity are more accurate (paragraphs 2.15 and 3.13 to 3.16).

## Incentive scheme

**20 The Home Office has not properly reformed the Asset Recovery Incentivisation Scheme (ARIS), which remains ineffective.** The Home Office has made changes following a consultation of all recipients, including using ARIS funds to invest in specific asset recovery projects, and it considers that it has achieved its objective of reforming the scheme. There is also now better disclosure of how bodies spend incentive scheme monies. The scheme, however, continues to reward bodies based only on the confiscation order income achieved, rather than the level of crime disrupted or other objectives. Other weaknesses, including not linking effort to reward, also remain although the Home Office is looking at increasing the funding allocations to police forces from 2016-17 (paragraphs 3.19 to 3.23).

## Conclusion

**21** Since 2014 the criminal justice bodies have improved how they administer confiscation orders, with greater focus on enforcement and better joint working across bodies. This has led to a £22 million (16%) increase in confiscated income in 2 years and the highest amount collected to date. Other changes, such as stronger sanctions, that could potentially improve performance, have also been introduced.

**22** But the Committee of Public Accounts expected the confiscation order system as a whole to have been transformed by the end of 2015, and this has not happened. The criminal justice bodies have not met five of the Committee's six recommendations, despite agreeing to do so by the end of 2015, and they have not met their ambitious targets for implementing the Criminal Finances Improvement Plan. As a result, many of the fundamental weaknesses in the system identified two years ago remain. The number of orders imposed has fallen by 7% and remains a tiny fraction of total crimes. There are also fewer financial investigators and fewer restraint orders used, both crucial to successful enforcement.

**23** This is a disappointing result. All of the criminal justice bodies involved will need to show more determination and urgency to implement the Committee's recommendations, and address the deeper systemic problems surrounding the management of confiscation orders. Only by doing this will the full potential of confiscation orders be realised, and value for money achieved for the significant resources invested in the system.

## Recommendations

- a Working with other bodies, the Home Office should clarify the objectives of confiscation orders and their relative priorities.** These objectives should be supported by agreed success measures and an incentive scheme that aligns with them. They should also cover all crime types and not just serious and organised crime.
- b All bodies involved should, as a priority, develop a strong evidence base to help develop agreed success measures and improve their knowledge of what works.** Bodies should build on the recent improvements in information and ICT systems to develop the data they collect on confiscation orders, for example to measure their disruptive effect on crime.
- c The Home Office, in conjunction with the other bodies, should review the effectiveness of the confiscation orders accountability framework, including strengthening governance structures and improving disclosure of responsibilities and costs.** The review should include the role of the Criminal Finances Board, given its increasing remit and membership. It should also consider how Parliament and the taxpayer can be provided with more information on who is responsible for what within the confiscation orders system, and what each body involved spends on administration.

- d The Criminal Finances Board should implement its communications plan to raise the profile of proceeds of crime within law enforcement agencies with urgency.** In its revised improvement plan, the Board has already recognised that it needs to do more in this area given the poor progress so far. The Board should align its core messages with the agreed priorities and success measures. It should also agree and publish standard criteria to help law enforcement officers decide which criminal cases should be considered for confiscation proceedings.
- e The criminal justice bodies should take a concerted approach to tackling the enforcement areas where there is potential for higher recovery.**  
This should include:
- using more restraint orders as early as possible in criminal cases;
  - developing the skills and capacity needed by the judiciary and law enforcement agencies to investigate and assess the more complex legal and financial arrangements that sophisticated offenders use to hide their assets;
  - using the Foreign & Commonwealth Office more to better engage other countries on offenders' assets held overseas, particularly with the department now part of the Criminal Finances Board; and
  - considering changes in the law to stop offenders hiding illicit assets under other peoples' names, so that these assets can be recovered by law enforcement agencies.

# Part One

## Progress in identifying and investigating cases for confiscation orders

**1.1** Confiscation work begins once an investigation into an offence has started, as an order can only be imposed on a convicted offender. The stages that lead to the case being heard in court are shown in **Figure 2**. Specialist ‘accredited financial investigators’ take the lead role in developing each case.

**1.2** We previously reported that law enforcement and prosecution authorities successfully pursue confiscation orders for only a small fraction of convicted crimes (less than 1%). The 2002 Proceeds of Crime Act (the 2002 Act) sets no restrictions on the types or numbers of crimes where confiscation orders can be used, and they could legally be applied to any crime that has resulted in financial gain. In 2012-13 only 6,392 confiscation orders were imposed compared with 677,000 crimes that led to convictions, many of which would have involved financial gain. The Committee of Public Accounts (the Committee) was clear that this number of orders imposed was not high enough.

**1.3** Since our report in 2013 the number of confiscation orders imposed has fallen by nearly 500, to 5,924 in 2014-15 (a 7% reduction), as shown in **Figure 3** on page 16. The total value of orders imposed also fell by £31.5 million to £247.3 million between 2012-13 and 2014-15 (an 11% reduction) after adjusting for inflation. We estimate that the reduction in the number and value of orders imposed is likely to continue in 2015-16 based on the confiscation orders that were imposed in the first 5 months.

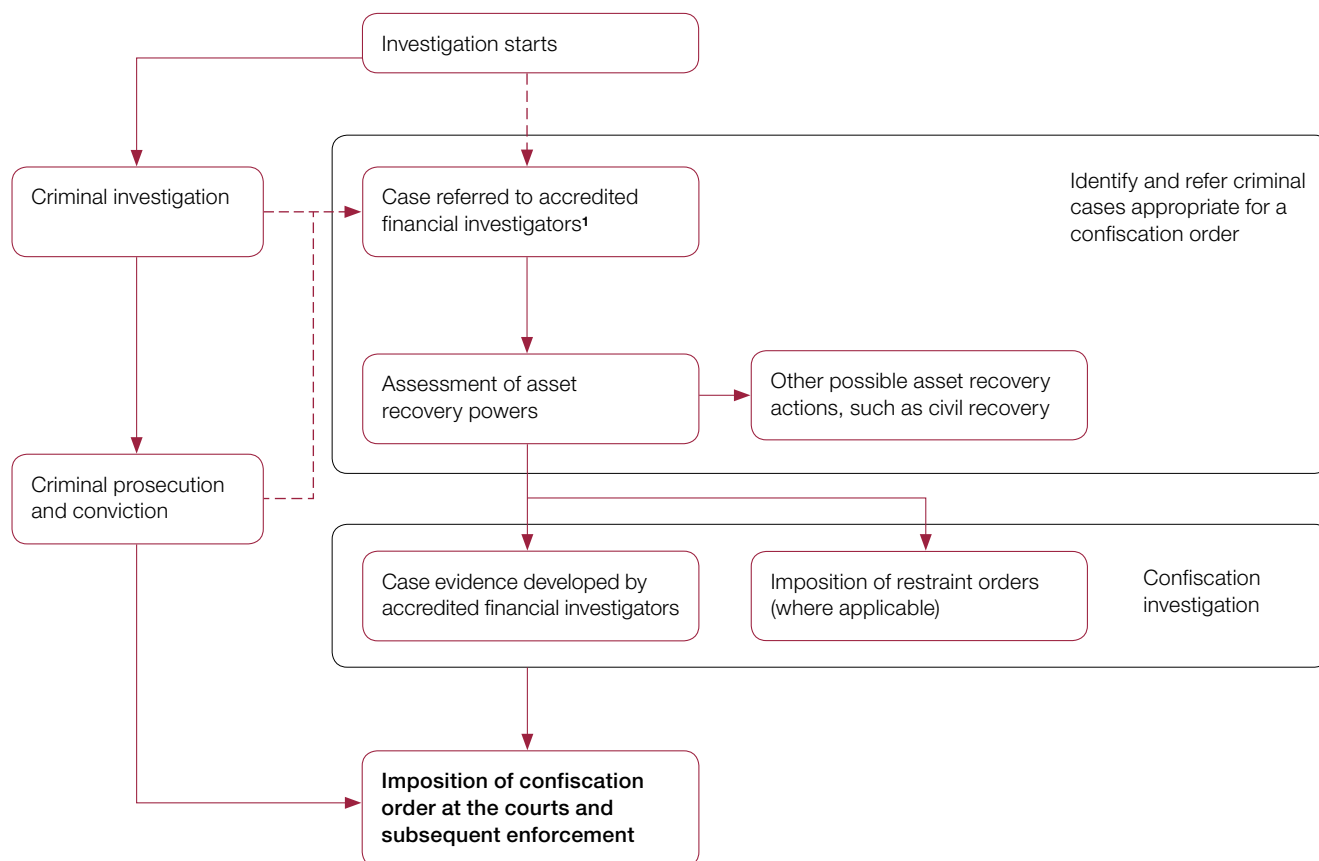
**1.4** The number of criminal convictions has also fallen over the same period but the proportion of confiscation orders imposed is still a small fraction. In 2014-15 there were 640,000 convictions, a fall of 6% (37,000) compared to 2012-13. However, the number of confiscation orders imposed of 5,924 remains at less than 1% of convicted crimes.

**1.5** Since 2013 law enforcement agencies have increased the use of alternative means of asset recovery, although not to the extent of the fall in the use of confiscation orders over the same period. Civil recovery orders, used in cases where a conviction is unlikely, totalled £17.8 million in 2014-15, compared with £4.5 million in 2012-13 (Figure 3). The bodies have been less successful in sustaining an increase in cash forfeiture, which was one of the objectives in the Criminal Finances Improvement Plan; receipts have fluctuated between £30 million and £50 million each year.



**Figure 2**

Process leading up to a confiscation order imposition

**Note**

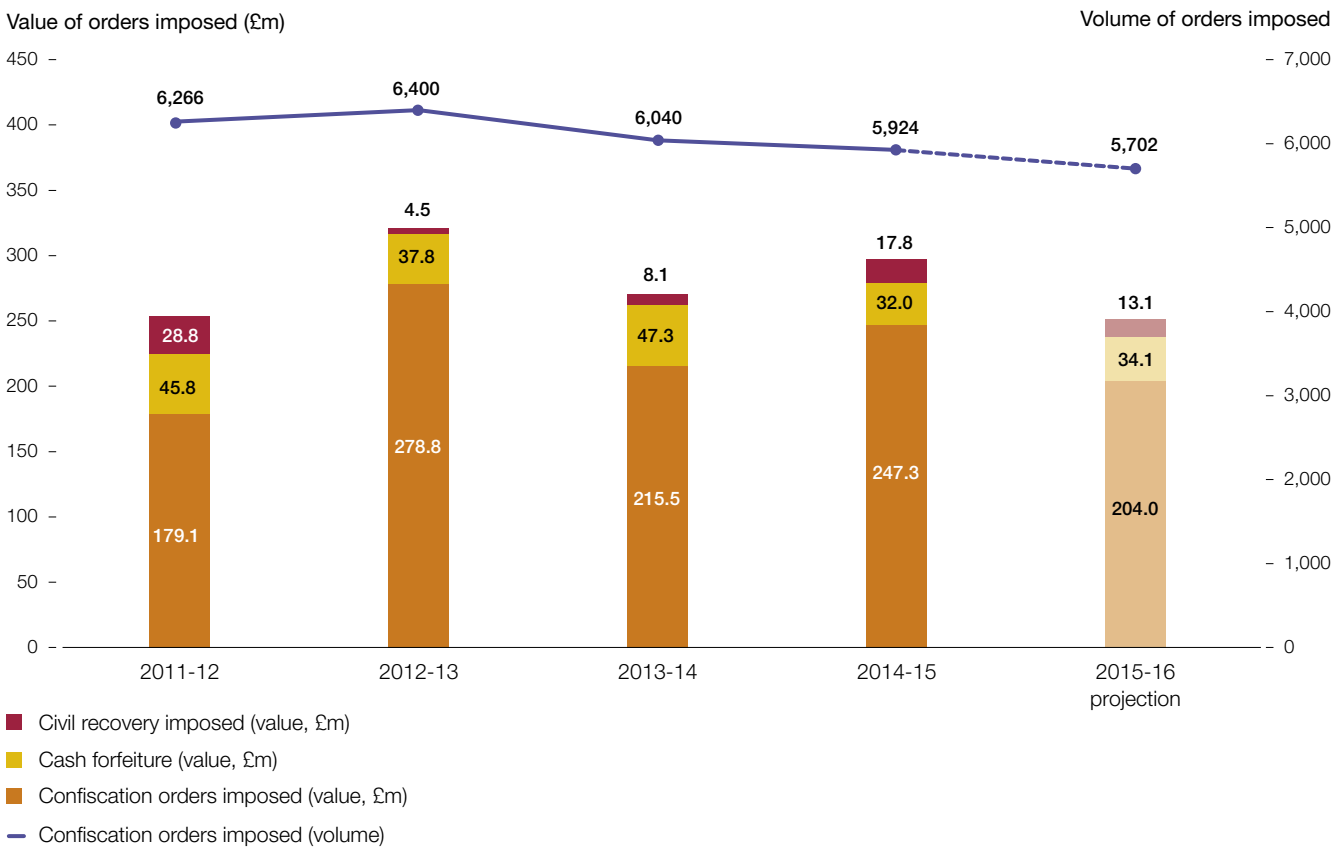
1 Confiscation proceedings can begin at any point after investigations start, including after conviction, with the referral of the case to accredited financial investigators.

Source: National Audit Office analysis

**1.6** Ministers have consistently stated that asset recovery is a government priority, but the criminal landscape is changing. There has been a marked shift in focus across law enforcement towards crimes that are not motivated by financial gain, such as tackling child abuse and countering extremism. Law enforcement agencies have worked hard to increase their capacity in these areas quickly. The Criminal Finances Board (the Board) is concerned, however, that the focus on these crimes may affect the number of future convictions in financially motivated crimes and hence the number and value of future confiscation orders.

**Figure 3**  
Confiscation orders imposed, 2011-12 to 2014-15

The number of confiscation orders imposed is falling



**Notes**

- 1 The values stated are the current order amounts at September 2015 and adjusted for inflation, using HM Treasury's gross domestic product (GDP) deflators at 2014-15 price base.
- 2 The number of confiscation orders imposed has fallen across all main types of offences. For example, the number of orders imposed for drug-related money laundering offences fell by 47%. Offences such as trading standards infringements have increased but these accounted for less than 2% of orders imposed in 2014-15.
- 3 Our projection for 2015-16 is based on actual figures for the first 5 months of 2015-16 and extrapolated for the full year, assuming the number of confiscation orders imposed continue at the same rate.
- 4 Cash forfeitures are cash seized by law enforcement agencies and subsequently forfeited as offenders have not been able to prove it has come from legitimate sources.
- 5 Civil recovery is where the Crown Prosecution Service, the Serious Fraud Office or the National Crime Agency can recover assets deemed to have been obtained through criminal conduct through the civil courts. No conviction is required but these cases can be costly to pursue.

Source: National Audit Office analysis of Joint Asset Recovery Database and Criminal Finances Board performance papers

**1.7** Furthermore, at a time of reducing budgets this shift in focus has had inevitable consequences for other areas, such as asset recovery. For example, the police's regional asset recovery teams estimate they will between them lose around 17% of their funding in 2015-16, following three years of funding at around £10 million a year (**Case example 1**). Before 2015-16 the Home Office ring-fenced their funding, but in 2015-16 withdrew the ring-fence. This was so that funding decisions could be made more locally by the police's regional organised crime units, who oversee the teams. Few police forces, however, see asset recovery as a priority compared to other areas of law enforcement. In comparison, the current government has clearly set out that confronting tax evasion is a priority and HM Treasury has committed £800 million (over 5 years) to this work.<sup>5</sup>

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### Case example 1

#### Regional Asset Recovery Teams

In 2013 we highlighted the Regional Asset Recovery Teams (RARTs) as good examples of joint working. Set up in 2004, these teams are multi-agency units with police and civilian accredited financial investigators, Crown Prosecution Service lawyers and HM Revenue & Customs officers. The RARTs carry out complex confiscation investigations, often in connection with organised crime and money laundering. In 2014-15 they initiated 242 confiscation orders with a total value of £24.7 million.

Source: National Audit Office analysis

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### Factors affecting confiscation order use

**1.8** In 2013 we identified several reasons why so few potential cases result in confiscation orders:

#### Identification

- Confiscation orders have a **low profile** within many law enforcement agencies.
- Prosecutors and law enforcement officers **lack knowledge of proceeds of crime legislation**.
- **Lack of consistent selection of cases** for confiscation orders by law enforcement and prosecution agencies.

#### Investigation

- **Developing cases** for a confiscation order hearing can be lengthy and resource intensive.

The Committee recommended that criminal justice bodies address these issues. We assess progress in the paragraphs below.

<sup>5</sup> HM Treasury, *Summer budget 2015*, HC 264, July 2015.

## **Identifying cases to pursue confiscation orders**

### Raising the low profile of confiscation orders

**1.9** In 2013 we found that while a few law enforcement agencies treated confiscation as high profile, most did not. Since then there has been little progress, particularly across police forces, who have historically initiated nearly 90% of orders. This is despite improving criminal finance communications being an objective in the Criminal Finances Improvement Plan. The Board finally agreed its 'communications framework' in June 2015, which was 10 months after the Home Office, as the lead body, had planned. The delay was due to insufficient resources. In the revised Criminal Finances Improvement Plan, the Board sets out a renewed ambition to devote more attention and commitment to this area.

**1.10** The profile of confiscation orders among many law enforcement agencies remains low. For example, our review of the 43 police and crime plans for 2014-15 covering each police force in England and Wales showed only 4 set out asset recovery as a clear part of their plans. One of these, Nottinghamshire police force, reported a 15% increase between 2012-13 and 2014-15 in the number of confiscation cases they brought to court that led to an order (203 in 2014-15). In contrast, we found that 23 plans did not mention asset recovery at all and, on average, the number of successful cases brought to court by those police forces fell by 12% between 2012-13 and 2014-15.

### Increasing knowledge of proceeds of crime legislation

**1.11** We also reported in 2013 that because of poor knowledge of proceeds of crime legislation and practice among law enforcement agencies, use of confiscation orders often remained an afterthought for many criminal investigators. This meant that bodies did not identify potential cases for a confiscation order or that they did not bring in financial investigators early. Such delays lessen the chance of successful enforcement, especially for high-value orders.

**1.12** Some bodies have taken individual action to improve this knowledge among their criminal investigation officers. For example, in early 2015 HM Revenue & Customs introduced a new strategy and accompanying awareness campaign around recovering proceeds of crime. Such initiatives, however, are not part of a coordinated national plan across all law enforcement agencies, especially police forces.

## Increasing consistency in the selection of cases

**1.13** Law enforcement agencies continue to have differing criteria as to which criminal cases should be selected for confiscation proceedings. As we previously reported, this means that there is no consistent judgement being made in which cases are being accepted and prioritised for further investigation. The Committee recommended that law enforcement and prosecution agencies agree and apply a common set of criteria to ensure that they consider consistently and properly all crimes with a financial gain for confiscation orders. In response, the criminal justice bodies agreed to adopt common criteria by the end of 2014, but they have not yet done so.

## **Investigating and developing cases for a confiscation order hearing**

**1.14** Developing case evidence to prepare for a confiscation order hearing can be time-consuming and resource-intensive for law enforcement and prosecution agencies. Some complex cases can take more than two years from conviction to a confiscation order being imposed. To help make the process more efficient, the Crown Prosecution Service is now increasingly using specialist prosecutors to help develop cases, as part of the establishment of a central unit for all proceeds of crime work.

**1.15** The Committee recommended that criminal justice bodies use financial investigators earlier in cases. We found, however, that law enforcement agencies could be hampered in their ability to conduct earlier investigations as a result of a fall in investigative capacity across the system. The number of accredited financial investigators training or trained to use the full range of confiscation order powers, known as 'confiscators', has fallen from 1,440 in September 2013 to 1,358 in September 2015, a fall of 6%. The fall has mostly been seen across police forces. Reasons for the fall include budget cuts and greater demand for the skills of experienced financial investigators in the private sector.

# Part Two

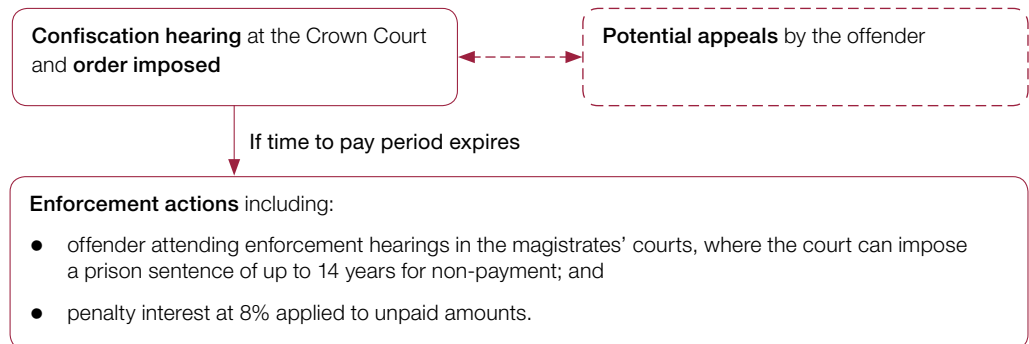
## Progress in enforcing confiscation orders

**2.1** To impose a confiscation order, the 2002 Proceeds of Crime Act (the 2002 Act) requires a judge to decide on the overall level of criminal benefit, and the proportion of it that the offender can pay given the assets they have available. Judges base their decisions on the evidence provided by the relevant financial investigator and prosecutor, along with any contesting evidence provided by the offender.

**2.2** Once a judge imposes a confiscation order, the offender must pay up within a set time, after which penalty interest of 8% is charged and sanctions imposed (**Figure 4**). HM Courts & Tribunals Service is statutorily responsible for enforcing all orders but in practice the Crown Prosecution Service and the Serious Fraud Office take on responsibility for enforcing high-value orders.

**2.3** In 2014 the Committee of Public Accounts (the Committee) concluded that not enough was being done to enforce confiscation orders once they have been made, especially in higher-value cases. For example, only 18% of the value of orders of £1 million or more were successfully enforced up to September 2013, resulting in £920 million still outstanding. We reported in 2013 that the enforcement agencies often face tough challenges in collecting orders, especially those of high value. Despite these difficulties, however, we found that enforcement was hampered by a range of poor practice, from a lack of joint working between bodies to outdated ICT systems and poor quality data.

**Figure 4**  
Imposition and enforcement process



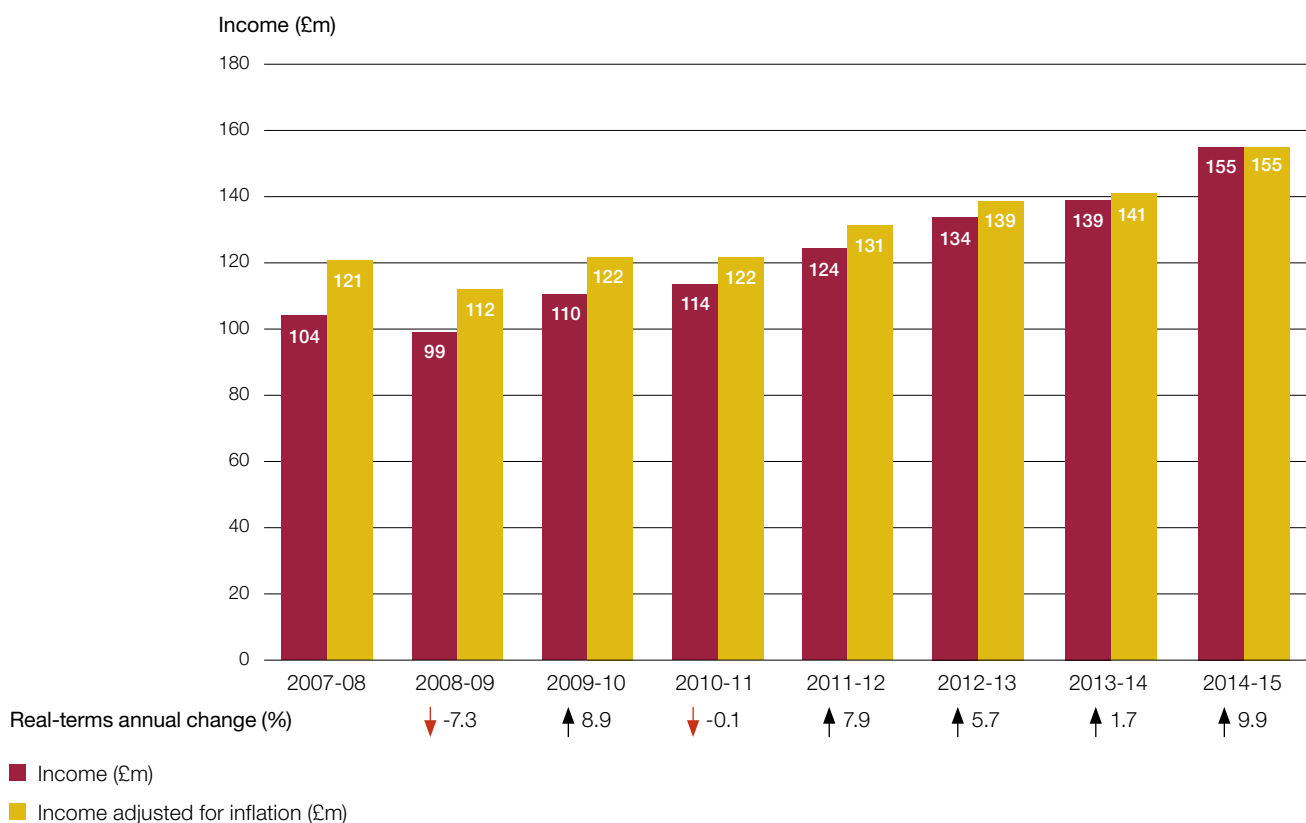
Source: National Audit Office analysis

**2.4** Since our report in 2013 the criminal justice bodies have continued to improve their performance in enforcing orders. In 2014-15, they collected £155 million between them, continuing the trend of increasing collection each year as shown in **Figure 5**, with a rise since 2012-13 of 16% (11% after inflation). Enforcement rates have also increased, from 41% in September 2013 to 45% in September 2015 across all existing orders (**Figure 6** overleaf). Most significantly, enforcement of orders valued at £1 million or above increased from 18% to 22% over the same period (Figure 6).

## Figure 5

Income from confiscation orders, 2007-08 to 2014-15

The income collected from confiscation orders has grown by £34 million in real terms since 2007-08, to reach its highest level yet in 2014-15



### Notes

- Income includes money collected and distributed as compensation to victims of crime.
- Figures adjusted for inflation using HM Treasury's gross domestic product (GDP) deflators at the 2014-15 price base.

Source: National Audit Office analysis of Joint Asset Recovery Database

**Figure 6**

## Overall enforcement rates at September 2013 and September 2015

**Enforcement rates have increased since September 2013**

Order size	September 2013 (%)	September 2015 (%)	Percentage points change
£0.01–£1,000	89	96	7
£1,000.01–£25,000	84	87	3
£25,000.01–£100,000	72	75	3
£100,000.01–£500,000	59	62	3
£500,000.01–£1,000,000	41	42	1
£1,000,000.01–£50,000,000	18	22	4
<b>Overall</b>	<b>41</b>	<b>45</b>	<b>4</b>

**Notes**

- 1 Includes all orders made since, or outstanding at, 2004.
- 2 Figures relate to all orders, including some recently imposed where enforcement agencies have had little time to act to enforce collection. Enforcement rates may therefore be understated in some cases.

Source: National Audit Office analysis of Joint Asset Recovery Database

**2.5** The improvements in collection, however, have not been enough to reduce existing debt, which has continued to rise. At September 2015, the total outstanding amount stood at £1.61 billion, an increase of £158 million (11%) since September 2013 (**Figure 7**), although most of the increase is due to accrued penalty interest of 8% for non-payment. Overall, accrued penalty interest now accounts for 29% (£471 million) of the total outstanding amount, much of it from outstanding orders that are 5 years or older.

**Improvements in enforcement practices**

**2.6** Since 2014 the criminal justice bodies have made efforts to address the Committee's recommendations on enforcing orders, which have helped to improve collection rates. The main areas of improvement include:

- better joint working between bodies; and
- better analysis of what is collectable in existing orders to help focus activity more efficiently.

The bodies have also begun to make changes in other areas where it is too early to assess impact, primarily around:

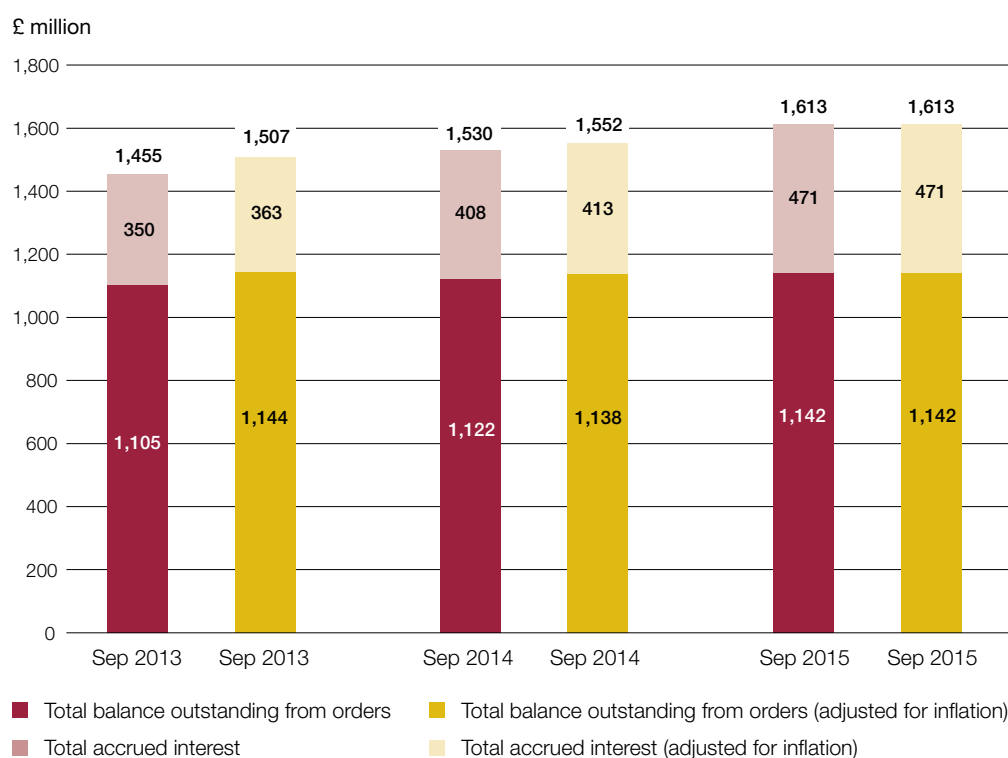
- sanctions;
- better engagement with the financial services sector; and
- overseas work.



**Figure 7**

## Outstanding debt since September 2013

The outstanding amount arising from unpaid confiscation orders continues to increase

**Notes**

- 1 We adjusted for inflation using HM Treasury's gross domestic product (GDP) deflators at 2014-15 price base.
- 2 Figures may not total due to rounding.

Source: National Audit Office analysis of Joint Asset Recovery Database

**Joint working****2.7** At the operational level, joint working has improved, with changes including:

- The Home Office, in conjunction with the other bodies has created regional Asset Confiscation Enforcement (ACE) teams to provide dedicated financial investigator assistance to the enforcement agencies. Since the teams began in November 2014, they have helped to collect £18 million at a cost of £3 million. In 2014 the National Crime Agency also established its own ACE team to assist with enforcement of specific orders.
- Bodies involved in administering confiscation orders have located some of their units together. For example, in London, teams from the Crown Prosecution Service's proceeds of crime, HM Courts & Tribunals Service, the regional asset recovery and ACE units are all based in the same building. This has helped with the sharing of information and expertise.

## Better analysis of what is collectable

**2.8** Since the start of 2014 all three enforcement agencies (the Crown Prosecution Service, the Serious Fraud Office and HM Courts & Tribunals Service) have improved their analysis on individual confiscation orders to focus their enforcement activity. Between them they identified around 200 priority orders, based mainly on the value of collectable assets, to focus their efforts. This work has had some success, with the agencies collecting £85 million between April 2014 and September 2015 from the orders, compared with a total of £36 million collected from them previously. This includes £12 million recovered from Edward Davenport (**Case example 2**).

## Sanctions

**2.9** In 2014 the Committee concluded that the prevailing sanctions regime did not work and should be reformed. The Home Office, Ministry of Justice and other bodies accepted this, having already committed to introducing stronger powers for enforcing confiscation orders in October 2013 through the Serious and Organised Crime Strategy. The Home Office led on drafting and bringing the Serious Crime Act through Parliament, which became law in June 2015, with powers including:

- stronger powers for judges, such as ‘compliance’ orders to restrict offenders’ freedoms, for example travel bans; and
- longer default prison sentences, with no automatic release halfway through for offenders with outstanding orders of more than £10 million.

The Home Office, in conjunction with law enforcement and prosecution agencies, is currently developing further guidance on how to use these powers effectively.

**2.10** Practitioners are, as yet, uncertain of the effects these powers are likely to have on increasing payment of orders or deterring crime. As part of the impact assessment on these legislative changes, the Home Office and the Ministry of Justice reported that they did not have the information available to predict likely offender behaviours. There are also no cases yet to prove their success as these powers have yet to be tested in court. The Home Office has also not changed the policy of charging 8% penalty interest on all outstanding debt, although we reported in 2013 that it was ineffective. Accrued interest now accounts for 29% of the total outstanding amount of £1.61 billion.

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### Case example 2

#### Enforcing the order relating to Edward Davenport

Edward Davenport was convicted in May 2011 of fraud. After a number of appeals, the court imposed a confiscation order on him of £12 million in July 2014. Although the judge ruled that Davenport had only benefited by £750,000 from his convicted offence, the judge also ruled that he had been living a criminal lifestyle. This enabled the Serious Fraud Office to include Davenport’s assets and expenditure for six years before the crime was committed as potentially derived from crime, leading to the court’s imposition of the much larger order amount. After further appeals, Davenport sold his London mansion for £27 million in May 2015 and paid off the order in full. A crucial factor in the enforcement success was swift action by the Serious Fraud Office to restrain Davenport’s assets as soon as he was arrested.

## Engagement with the financial services sector

**2.11** Since 2014 the Home Office and the National Crime Agency have been working more closely with banks and other financial institutions to identify criminal assets and to tackle criminal finances more widely. In April 2014 the Home Secretary launched the Serious and Organised Crime Financial Sector Forum involving financial services firms, banks and law enforcement agencies. The forum meets three times a year to identify practical options to tackle financial crime. In 2015 the National Crime Agency also launched the Joint Money Laundering Intelligence Taskforce (JMLIT) to enable more effective exchange and analysis of information and intelligence between banks and law enforcement agencies.

**2.12** The development of this engagement is at a very early stage, but early signs of increased information-sharing are positive. Specifically for confiscation orders, the National Crime Agency ran pilot schemes in 2015 with banks to identify any previously unidentified accounts held by offenders with outstanding orders. The banks have identified few accounts to date, but both the National Crime Agency and the banks are learning to tailor the information used to make searches more effective.

## Overseas agreements

**2.13** Since 2013 the government has made efforts to confiscate more UK criminal assets transferred abroad, by developing relationships and better working practices with the recipient countries' law enforcement agencies. The criminal justice bodies have built on their overseas network of fiscal crime advisers. For example, the Crown Prosecution Service has introduced 6 new asset recovery advisers dedicated to confiscating the proceeds of crime in countries such as Spain and the United Arab Emirates.

**2.14** Progress is slow, however, with only a fraction of the estimated £300 million of assets belonging to offenders with confiscation orders held overseas repatriated to the UK in the past 2 years.<sup>6</sup> For example, only £6.5 million has been recovered since April 2014 as part of asset sharing agreements with other countries.<sup>7</sup> The relationship-building is nevertheless beginning to show some signs of promise, for example the Crown Prosecution Service recovered £300,000 from the United Arab Emirates for the first time in 2015. A major challenge is that many other countries do not recognise a confiscation order imposed in the UK. Requests must go through their own domestic legal systems, which can take many years. In December 2014 the UK joined a European framework under which a confiscation order imposed in one European country is recognised and enforceable in another, but this is yet to result in any substantial further recovery.<sup>8</sup> The UK has had more success in assisting other countries to recover assets held here: in 2015, for example, UK criminal justice bodies recovered £28 million on behalf of Macau.

<sup>6</sup> Estimate by HM Courts & Tribunals Service.

<sup>7</sup> Other assets of about £14 million have been repatriated to the UK since April 2014, through voluntary payment by the offender, third party settlements or action by receivers.

<sup>8</sup> The UK government has also rejoined a European agreement related to freezing orders.

## Other changes

**2.15** Other promising changes to the process that the criminal justice bodies are introducing include:

- **ICT:** the criminal justice bodies have allocated £2.3 million from their incentivisation scheme fund to improve the Joint Asset Recovery Database (JARD), the main database for confiscation orders. So far, data have been 'cleaned' to reduce the number of errors and duplications and the software has been upgraded, with further plans to improve information recording.<sup>9</sup> Better data and systems should reduce delays and enable the criminal justice bodies to enforce confiscation orders more effectively.
- **Use of private sector 'receivers':** the Crown Prosecution Service, working closely with other bodies, has improved the framework for appointing and managing private sector firms specialising in collecting assets in complex legal and financial situations. This follows our concerns in 2013 that there was a lack of performance and cost monitoring in the previous framework.

## Scope for further enforcement

**2.16** As we reported in 2013, enforcement bodies often face tough challenges to collect orders, especially when they are high value. Criminal gains are often disposed of quickly or transferred out of reach, and many criminals are determined to keep as much as they can. As a result, the enforcement bodies estimate that only a low proportion can be collected from the £1.61 billion outstanding debt. In February 2014, the enforcement agencies conducted a detailed review which concluded that only £311 million could be realistically collected across all orders. More recently, in summer 2015, HM Courts & Tribunals Service estimated, for the purposes of its Trust Statement, that £203 million (12%) could be realistically collected, based on historical performance.

**2.17** One of the main reasons why so much is judged uncollectable is because many offenders have successfully hidden assets, and the main sanction of prison has not been effective. Without new information on the whereabouts of an offender's assets, enforcement agencies believe there is limited further action they can take. This reason alone is cited for at least 670 orders that the agencies deem uncollectable, covering £310 million of the outstanding debt. Under the 2015 Serious Crime Act financial investigators will be able to use their investigative powers to find new assets, but this part of the Act is yet to be enacted.

<sup>9</sup> Plans to change other ICT systems following our previous report, such as HM Courts & Tribunals Service's payment system, have been revised due to the cancellation of the enforcement outsourcing project in October 2015 for court debt. HM Courts & Tribunals Service had included ICT system and process improvements as part of this project, but it is instead now planning to modernise its compliance and enforcement services in-house. As part of this, HM Courts & Tribunals Service will consider how it might improve its ICT systems, including those related to confiscation orders.

**2.18** Another reason for low collectability is because judges set some order amounts which, in the event, are unrealistically high. This is because of various factors:

- **Offender does not cooperate:** under the 2002 Act, the judge has to impose an order equal to the amount the offender is judged to have 'benefited' from their crimes, unless the offender can show their available assets to be lower (**Figure 8** overleaf). The burden is on the offender to provide evidence to challenge the prosecutor's valuation, but may offer little or none. As a result, in making an assessment based on the information presented to the court, the judge may impose an order whose value is higher than the offender actually benefited or has available.
- **Judicial decision-making:** in our 2013 report, we found that the lack of expertise and experience of some judges can lead to orders being set too high. For example, in one large order the judge used the turnover of the fraudulent company rather than the amount of VAT fraudulently claimed as part of determining the order. This was later overturned on appeal and the order was reduced by tens of millions of pounds.
- **Unrealistic assumptions or errors by financial investigators:** financial investigators may provide poor-quality information to the court, such as inflated estimates of the value of the offender's benefit and assets. In one large order imposed in 2008, for example, financial investigators listed £1.6 million of property in Tanzania that was later found not to exist. We reported previously that in the past some financial investigators and prosecutors overestimated the value of an offender's assets, partly because the old public service agreement income targets incentivised high value order imposition.<sup>10</sup>

Both the prosecutor and the offender can make appeals to reduce the order amount if errors have been made or there is new evidence. However, this may not always occur, for example if the offender has absconded or continues to refuse to cooperate.

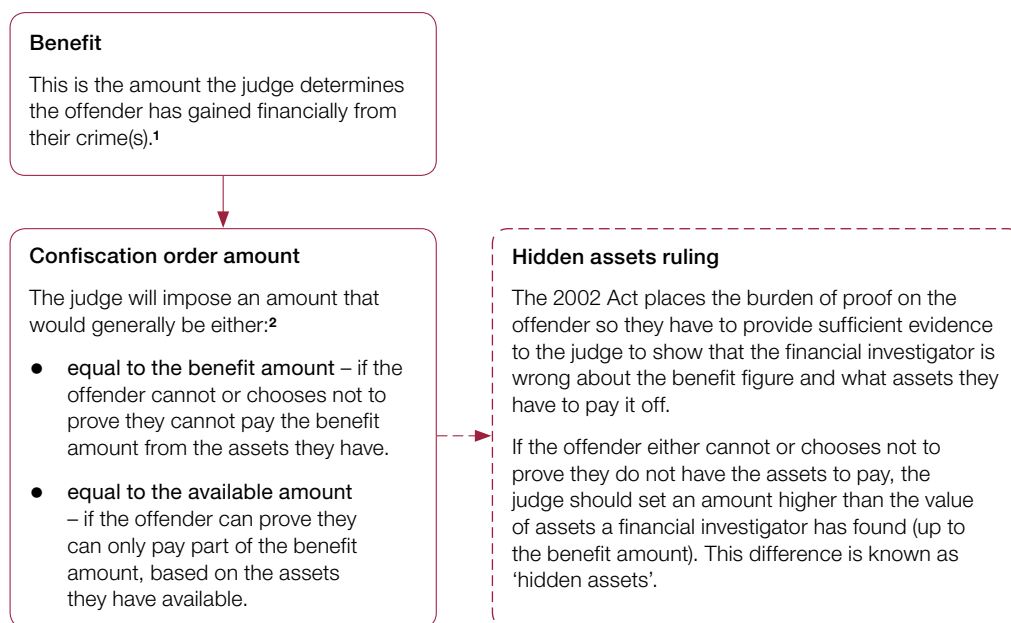
**2.19** The offender may also no longer have the assets available to pay off the order, for example by spending or disposing of them after the order has been imposed, particularly if these assets have not been subject to a restraint order. From June 2015, however, law enforcement agencies have been able to seize moveable property such as jewellery or cars, potentially mitigating this risk.<sup>11</sup> But even if they are subject to a restraint order, assets such as cars may also fall in value over time, bringing in less than expected when they are sold.

<sup>10</sup> The target was to recover £200 million in 2008-09 and £250 million in 2009-10, but neither were ultimately achieved.

<sup>11</sup> As a result of the enacting of clauses within the Policing and Crime Act 2009.

**Figure 8**

## Determining a confiscation order amount

**Notes**

- 1 For some offences (such as arms or drugs trafficking) or multiple offences, the judge will consider whether these were indicative of the offender living a 'criminal lifestyle', following the criteria set out in the 2002 Act. If so, this means that any assets obtained or expenditure incurred over the previous 6 years by the offender can be included in determining the benefit.
- 2 In limited cases, according to the 2002 Act, the judge can impose an amount based on what they consider just in the circumstances (for example if there are victims to consider). This should not exceed the benefit amount.

Source: National Audit Office analysis

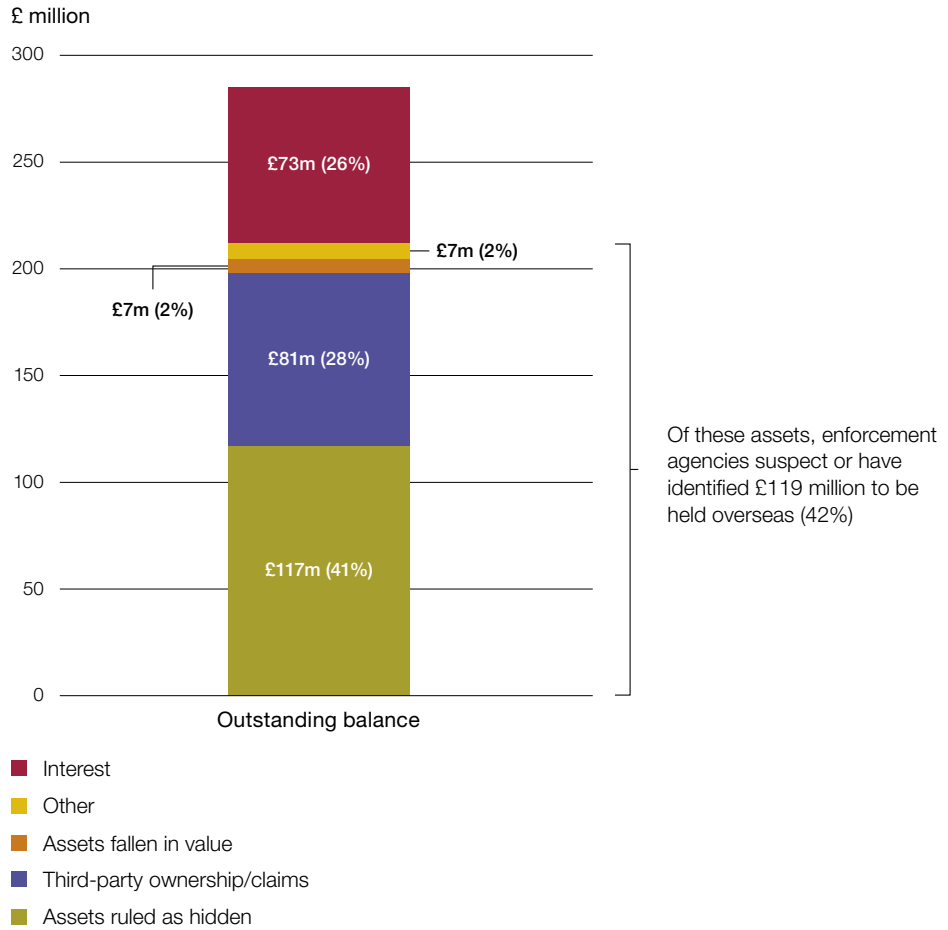
## Areas where enforcement could be improved

**2.20** Enforcement agencies report monthly on what is collectable from priority orders, but not on the reasons why collectability is so low. Such analysis would help enforcement agencies to identify what actions could be taken to improve further collectability. To assess the possibility for further recovery in more detail, we reviewed the top 10 outstanding orders by value. These orders cover £285 million (18% of the total outstanding debt) and share a number of characteristics that make enforcement difficult. For example, across the 10 orders, £117 million of the orders' outstanding debt is classified as 'hidden' (**Figure 9**). Overall, the enforcement agencies currently estimate that only £15.5 million (5.4% of the outstanding debt) can be realistically collected from these orders.

**Figure 9**

The key enforcement issues for the top 10 outstanding orders

More than two-thirds of outstanding debt across the top 10 orders by value relate to assets that are either considered hidden by the enforcement agencies or are subject to claims by other parties



**Notes**

- 1 Third-party ownership/claims include assets held by companies or where ownership of the asset is in dispute.
- 2 'Other' includes assets that are in the process of being recovered.

Source: National Audit Office estimate based on review of confiscation orders

**2.21** Our audit of the enforcement action taken on the 10 orders so far, together with observations on other orders during our study, suggests that changes in particular areas could improve future enforcement rates:

- **More early action:** one important reason for consistently low estimations of collectable debt from ‘old’ orders<sup>12</sup> is that insufficient early action was taken at the beginning of their investigations. Our 2013 report identified that quick and early use of financial investigators and restraint orders to freeze an offender’s assets can be crucial to successful enforcement later, as it prevents offenders disposing or transferring illicit assets or other evidence. The Committee recommended that this should be an area of focus, but the use of restraint orders has fallen in the past 2 years, by 165 (12%) to 1,203 in 2014-15, making a total reduction of 675 orders (36%) between 2010-11 and 2014-15. In recent months the declining trend has started to reverse, potentially because of changes made under the 2015 Serious Crime Act making it easier to apply for a restraint order.<sup>13</sup> However, continued low use of restraint orders, added to the fall in financial investigators (paragraph 1.15), risks storing up further enforcement difficulties in the future.
- **Better judicial training:** we recommended in 2013 that the judiciary should improve its training for judges on proceeds of crime and consider using specialist judges and courts for confiscation hearings. This was because we had found that judicial expertise in confiscation order cases varied. We had been informed that in some cases this lack of experience and expertise adversely impacted on enforceability through setting order amounts too high. Although the Judicial College has since updated its training module on confiscation orders to reflect the new legislation, training remains optional. The judiciary has also rejected introducing specialist judges and courts with the necessary expertise to hear confiscation order cases, believing it to be unnecessary and too restrictive.
- **Tackling the hiding of assets in other people’s names:** criminals often make great efforts to hide their gains, by using third parties such as partners or companies to ‘legally’ own the assets on their behalf. For example, in one large order, an offender sold £40 million of property to a property company in a sham sale to hide their assets. In our sample of 10 orders, we estimate that £81 million of assets are claimed by third parties (Figure 9), including those deliberately hidden under other people’s names. Other areas of law, such as family or insolvency law, can restrict the power of enforcement agencies to intervene, and criminals will continually look to exploit such ways to hide their gains. Under the 2015 Serious Crime Act third parties now have to make their claims as part of the confiscation hearing so that the judge can consider them in making the order. Further changes in the law, however, could be considered to redress the balance in favour of the authorities.

<sup>12</sup> Of the £1.61 billion outstanding debt, nearly a billion relates to orders 5 years old or more including £380 million in interest.

<sup>13</sup> The courts granted 1,006 restraint orders between April and December 2015, compared to 956 in the same period in 2014.



- **Better financial and legal skills:** law enforcement agencies have also identified a gap in their own skills and capabilities to match the sophistication of serious criminals. The Proceeds of Crime Centre, within the National Crime Agency, provides accredited training for financial investigators but this only provides a minimum standard of knowledge. Dealing with more complex issues, such as tracking money through various fake companies, is a skill currently learned on the job. As a result, practitioners agree that the loss of experienced financial investigators is as much of an issue as the overall fall in numbers (paragraph 1.15). The revised Criminal Finances Improvement Plan includes an objective to develop more enhanced training for complex cases and the Criminal Finances Board (the Board) is currently considering options as part of its review.
- **More action on assets transferred overseas:** of the top 10 cases, all have at least some identified or suspected assets overseas, which we estimate to be nearly £120 million in total. We outline an example in **Case example 3**, where assets were known to have existed but could not be traced. As described above (paragraphs 2.13 and 2.14), the Crown Prosecution Service and other bodies are beginning to tackle this issue, but more could be done. For example, the Foreign & Commonwealth Office, which since November 2015 attends the Board, could have a more central role in engaging with other countries on proceeds of crime work.

In our 2014 study on *Managing and removing foreign national offenders*, we found that including the Foreign & Commonwealth Office as an integral part of the process of deportation from 2013 made a significant difference. For example, the Foreign & Commonwealth Office helped build individual country plans for 17 'priority countries' based on foreign national offender volumes in UK prisons, each plan assessing country-specific barriers to removal.<sup>14</sup>

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### Case example 3

#### Assets hidden overseas

In 2012 a judge imposed a confiscation order of £29.3 million on an offender who had admitted fraud. The judge ruled that £25.8 million of the order involved 'hidden' assets. In its investigation, the Serious Fraud Office found that this amount had been transferred out of the UK to accounts in Pakistan, but could not trace exact whereabouts. The Serious Fraud Office is now using a private company, appointed by the courts as the enforcement receiver, to conduct further investigation in Pakistan, but so far without success.

Source: National Audit Office review of confiscation orders

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<sup>14</sup> Comptroller and Auditor General, HM Treasury, *Managing and removing foreign national offenders*, Session 2014-15, HC 441, National Audit Office, October 2014.

## **Revisiting orders**

**2.22** Where the court imposes an order at an amount less than the benefit (Figure 8), the courts can later increase the order amount if financial investigators subsequently find new assets belonging to the offender (known as 'revisits'). In our previous report, we found that criminal justice bodies between them only carried out revisits of 917 orders in total since 1987, and they did not have a common and systematic approach. Since 2014, some bodies such as the National Crime Agency and regional Asset Confiscation Enforcement (ACE) teams have focussed more effort in this area. Collectively, criminal justice bodies have carried out more than 400 revisits on orders in the past 2 years, confiscating an extra £7 million. There is, however, still no common, systematic approach in place across the bodies, and the fall in financial investigator numbers (paragraph 1.15) could also adversely affect future progress.

# Part Three

## Progress in developing strategic coherence and strengthening governance

**3.1** Significantly increasing the use, awareness and enforcement rates of confiscation orders cannot be done without coherent leadership and effective governance of the many bodies involved. We concluded in 2013 that the lack of coherent strategic direction and agreed success measures, compounded by weak accountability and a flawed incentive scheme, was the fundamental problem with the confiscation order system. The Committee of Public Accounts (the Committee) also concluded that there was “a lack of clarity over who is responsible, with no clear direction” and “weak accountability”.<sup>15</sup> Both we and the Committee made clear recommendations on:

- the development of **more effective governance and accountability**, including development of well-defined objectives and agreed success measures as part of a coherent and joined-up cross-government improvement plan; and
- the revision of the **incentive scheme** to align it with success measures and objectives and better reporting on use of funds.

In this part we examine the progress made by the criminal justice bodies against these recommendations.

### Governance and accountability

**3.2** The foundation of effective governance is a strong accountability framework, but in our 2013 report we found significant gaps and problems. Our latest report on accountability across government identifies four essential features of any effective system:<sup>16</sup>

- **Clear roles – someone to hold to account:** the clarity of accountability roles and relationships within the systems led by accounting officers, and whether they enable Parliament to know who it should hold to account for specific spending or programmes.
- **A clear expression of objectives and financial commitments:** clear information about government’s objectives and spending and its financial position is vital to understanding what government is accountable for. This in turn enables Parliament to track how effectively taxpayers’ money has been used.

<sup>15</sup> HC Committee of Public Accounts, *Confiscation orders*, Forty-ninth Report of Session 2013-14, HC 942, March 2014.

<sup>16</sup> Comptroller and Auditor General, *Cross-government: Accountability to Parliament for taxpayers’ money*, Session 2015-16, HC 849, National Audit Office, February 2016.

- **Robust performance and cost data:** accurate, comparable and up-to-date data enable Parliament to hold to account those responsible for performance, provide the basis for good management and allow service users to make informed choices among providers or services.
- **A mechanism or forum to hold to account:** a formal mechanism or forum, preferably public, allows individuals personally responsible for spending taxpayers' money to be held to account, including being challenged on how money was spent and on recommended improvements.

The rest of this section measures the administration of confiscation orders against these four features, to help assess current governance and leadership of the system.

### Clear roles – someone to hold to account

**3.3** As the policy owner for confiscation orders, the Home Office is the lead body. As a rule, the Committee would normally expect the accounting officer to have overall accountability. It would also expect the lead body to ensure that an effective supporting accountability framework is in place for the system to provide clarity over who is accountable for what, and how value for money is to be secured.

**3.4** Establishing an effective accountability framework with one person 'in charge' has, however, been a longstanding challenge for confiscation. The difficulty is not simply because so many bodies with their own accountability lines are involved, but also because the UK constitution deliberately sets up the criminal justice system to give elements of criminal justice, such as the judiciary, independence from central government to provide safeguards for citizens. Furthermore, in terms of the police, in 2012 the Home Office set up new locally accountable Police and Crime Commissioners to decide local priorities and spending.

**3.5** Our 2013 report nevertheless found weaknesses with the accountability framework for confiscation: that there was "insufficient coherence" in the system; and that there were "no clear lines of responsibility or authority through the delivery chain, and interdependencies between bodies were undefined". The Committee expected the Home Office, in conjunction with the other main bodies involved, to address these issues.

**3.6** The day-to-day administration of confiscation orders is organised on the basis of a complex set of formal and informal agreements between the various bodies involved, and this has not changed since 2013. Although it appears to operate without much friction between bodies on a daily basis, for anyone outside of the system, there remains lack of clarity over responsibilities and interdependencies.

**3.7** Overall governance is still provided by the cross-departmental Criminal Finances Board (the Board), along with a number of sub-groups.<sup>17</sup> Following our 2013 report findings, the Board is chaired by a Home Office minister.<sup>18</sup> The Board has also improved its coordination of activity to the extent that the Criminal Finances Improvement Plan assigns bodies with individual actions and the Board monitors progress. Members told us that the Board remains a useful forum for discussion and it helps them build networks and keep up to date with developments. But, as in 2013, many members of the Board continue to have concerns about its effectiveness as a governing board:

- **No strategic role:** the Board's role is one of oversight. Its stated purpose is to oversee criminal finances work, but it does not have a standard departmental board role to advise on strategic clarity including setting long-term vision and mission. Members feel this compromises its ability to make changes to the system.
- **Structure is too complicated:** the Board oversees the work of 9 working groups reporting to it, and itself reports to the Serious and Organised Crime Board. Members complained that arrangements should be streamlined to aid decision-making.

### A clear expression of objectives and financial commitments

**3.8** We found in 2013 that there was insufficient overall coherence in using confiscation orders because the bodies involved had not agreed how the government's objectives should be prioritised, or successful outcomes measured. These objectives are:

- confiscate the proceeds of crime;
- reassure the public that crime does not pay;
- disrupt and deter criminality;
- reduce harm caused to communities by criminality; and
- remove criminal role models.

<sup>17</sup> The Board meets four times a year and is attended by more than 20 senior representatives of bodies across the criminal justice system and beyond (Figure 1).

<sup>18</sup> Since November 2015, the Board is now co-chaired by a Home Office and Treasury minister, as part of its expanded remit to also cover money laundering.

**3.9** The lack of agreement meant that bodies made their own decisions on which objectives to prioritise. We found this led to some negative results, such as inconsistency in the crimes, cases and orders pursued by different bodies, low priority placed on confiscation by senior officers and officials across the system and, more widely, missed opportunities and ineffective use of limited resources. To improve coherence and avoid these negative results, we and the Committee recommended that a criminal finances overarching strategy should be produced with well-defined objectives and success measures.

**3.10** In response the Home Office, with agreement of the other bodies represented on the Board, published the *Criminal Finances Improvement Plan* (the Plan) in June 2014<sup>19</sup> – the first-ever overarching plan for criminal finances – setting it within the Serious and Organised Crime strategy, published the previous October. The latter’s focus is on “relentlessly disrupting serious and organised crime”; asset recovery is categorised as one of the disruptive tools.<sup>20</sup> The Plan mainly addresses administrative matters, and it has helped galvanise enforcement efforts. It does not, however, prioritise the above objectives or set out agreed success measures, leaving law enforcement agencies to continue to choose how they want to use confiscation orders.

**3.11** The Home Office decided in preparing the Plan that it did not want to prioritise the objectives, firstly because of the complicated nature of accountability lines surrounding confiscation (paragraph 3.4), but also because it believes that the use of confiscation orders is a tactical decision for law enforcement agencies in their wider fight against crime and that central direction would only distort operational decision-making.

**3.12** Our view is that such an approach will likely perpetuate the negative results set out above and in our 2013 report. Notwithstanding the barriers to achieving it, agreeing the relative importance of objectives, for example between confiscating income and crime disruption, should result in a more coherent approach in selecting, imposing and enforcing orders across bodies, which would result in greater value for money.

<sup>19</sup> HM Treasury, *Treasury Minutes*, Cm 8871, June 2014.

<sup>20</sup> HM Government, *Serious and Organised Crime Strategy*, Cm 8715, October 2013.

## Robust cost and performance data

**3.13** In its 2014 report the Committee concluded that: “the bodies involved with confiscation orders do not have the information they need to manage the system effectively”. In particular, “they lack detailed information on how much different enforcement activities cost, how successful different activities are and how much is realistically collectable in different cases”. Since then, bodies have improved their analysis of the collectability of high-value orders (paragraph 2.8), and also in some cases have improved data on activity:

- the Crown Prosecution Service has improved the collection and reporting of its confiscation order activity to help monitor its own performance;
- the Home Office, in supporting the Board, has improved the presentation of performance data (for example, what has been collected and restrained) to aid discussions; and
- the National Crime Agency, along with other law enforcement agencies, has provided the Board with activity figures on asset recovery and money laundering work against priority organised crime groups.

**3.14** But information on outcomes and costs, which together are needed to prove the value and cost-effectiveness of using confiscation orders and thereby build commitment to them, remains weak. On outcomes, the evidence on the disruptive effect of confiscation orders remains qualitative. Some bodies are developing measures, but these are at an early stage: for example, the National Crime Agency is reporting on disruption impact of their interventions, but their officers’ judgment is based on a range of factors, and does not distinguish the specific impact of confiscation orders. Other bodies, such as the College of Policing, have also yet to conduct any research into the effectiveness of confiscation orders.

**3.15** Likewise in terms of cost, the Board, or the taxpayer, still has little detail on how the estimated £100 million annual cost of confiscation order administration is actually spent. No body's financial statements contain any information on confiscation order administrative spending, and few bodies yet carry out any confiscation order cost analysis.

**3.16** This lack of progress is disappointing, especially as following our and the Committee's recommendations, the Board set out as part of its improvement plan that it would develop measures on disruption and value for money by March 2015. The Board has not yet developed these measures, and has rated its own progress as 'limited'.

#### A mechanism or forum to hold to account

**3.17** The ability to use published financial statements to hold individual bodies to account has improved since 2013. There is now more detailed formal reporting across the bodies concerned, for example more discussion of confiscation order activity in annual reports, as well as the income from the Asset Recovery Incentivisation Scheme. Furthermore, since 2013-14, HM Courts & Tribunals Service has included a more detailed note in its Trust Statement to show the outstanding amount each enforcement agency is responsible for enforcing.<sup>21</sup>

**3.18** In the future, transparency would be further increased if there is more detail in relevant bodies' financial statements, especially analysis on confiscation order administrative cost and performance, to help Parliament and the taxpayer understand how confiscation order spending and receipts are managed.

### The incentive scheme

**3.19** Incentives are a vital component in obtaining commitment to an agreed vision and encouraging behaviours that will best meet objectives. This is particularly true for confiscation orders where most bodies are not under the operational control of the Home Office. Since 2006, the Home Office has run the Asset Recovery Incentivisation Scheme (ARIS) which apportions all asset recovery monies collected each year at pre-determined rates (**Figure 10**). This amounted to nearly £170 million in 2014-15, half of which was paid out across the 163 bodies involved with confiscation order administration and the rest retained by the Home Office.<sup>22</sup>

<sup>21</sup> HM Courts & Tribunals Service, *Trust Statement 2014-15*, July 2015. Under the 2002 Proceeds of Crime Act, HM Courts & Tribunals Service is legislatively responsible for all confiscation order debt, although in practice the Crown Prosecution Service and Serious Fraud Office take on responsibility for enforcing the higher-value orders.

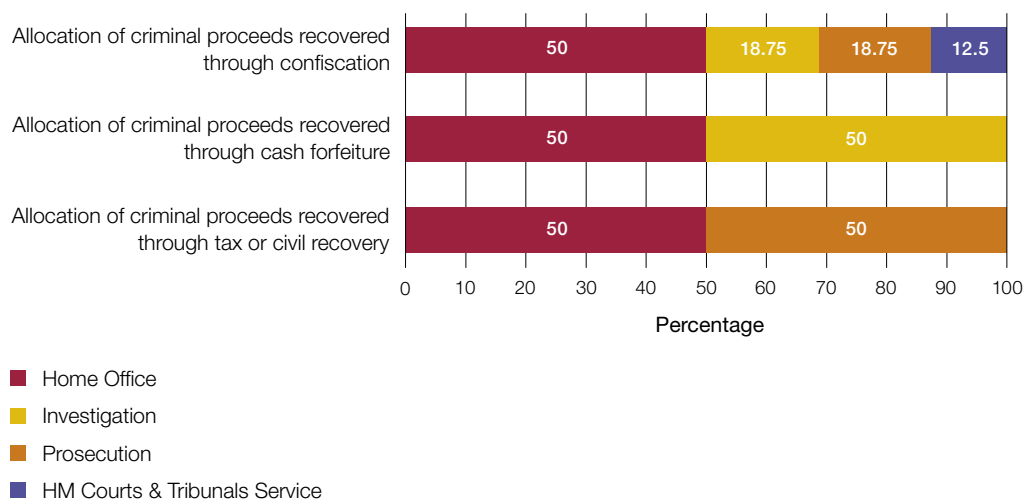
<sup>22</sup> Net of £23.4 million of asset recovery monies collected and already paid out as compensation to victims.



**Figure 10**

## Asset Recovery Incentivisation Scheme allocation rates

There are agreed rates for how ARIS monies are shared between the bodies involved



Source: National Audit Office analysis

**3.20** In 2013 we reported that ARIS was flawed because it rewarded bodies solely for the amounts collected and did not reflect their contribution to wider policy goals, such as denying assets to criminals or disrupting crime. Following our and the Committee's recommendations to reform the system, the Board set an objective in the Plan to "ensure ARIS works effectively".

**3.21** The Home Office, as the administrator for ARIS, has made some improvements to the system. It led a consultation in 2014 of ARIS recipients, which resulted in a trial of setting aside £5 million from 2015-16 ARIS receipts to invest in national criminal finances capability.<sup>23</sup> There is also now clearer reporting on how ARIS monies are used, with the Home Office having received reports on how 98% of the allocated monies were spent by bodies in 2014-15. Based on these changes, the Home Office considers that it has achieved its objective of reforming ARIS.

<sup>23</sup> This was mainly to assist with enforcement, such as funding new Regional Asset Confiscation Enforcement teams and improvements to the Joint Asset Recovery Database, both of which we cover in Part Two. In November 2015, the Board agreed to continue with this approach, following the early success of both projects.

**3.22** In the absence of agreed success measures based only on level of confiscated income, however, we consider that the changes have not adequately addressed the need to reward contribution to other confiscation order policy goals (paragraph 3.8). Other weaknesses also remain, including those we highlighted in 2013:

- **The split of the monies through ARIS does not reflect bodies' relative contribution to success.** Although it has no operational role, the Home Office retains 50% of all monies received, as part of its core budget settlement. Investigating and prosecuting agencies also receive set allocations (Figure 10), but do not receive any extra receipts when undertaking additional enforcement work as a lead agency. In terms of future changes, the Home Office is looking at increasing the proportion that is allocated to police forces from 2016-17 in response to the current government's manifesto commitment.
- **Rates are not aligned with other asset recovery approaches such as cash seizure and civil recovery.** The investigating authority (usually police forces) can keep just 18.75% of receipts from confiscation orders, whereas they can keep 50% of cash seizures (Figure 10). This has the potential to encourage the investigating body to use cash seizure or civil recovery over confiscation, given the greater return.
- **ARIS monies are delivered to participants on a quarterly basis when orders are paid and must be spent in-year, following government budgeting rules.** There is therefore uncertainty and enforced short-termism built into the system. The Serious Fraud Office, following consultation with HM Treasury, has opted out of ARIS from 2014-15 in return for an increase in its core budget, which is helping to ensure certainty and the ability to plan long term.

**3.23** In practice, a major barrier to reforming ARIS has been that its receipts form part of the Home Office's core budget settlement each year.<sup>24</sup> In 2014-15 this amounted to £83 million and is expected to be £92 million in 2015-16. The Home Office currently uses much of this funding to invest more broadly in serious and organised crime activities, but this allocation is subject to its annual budget review.

<sup>24</sup> HM Treasury, *Spending Review 2010*, Cm 7942, October 2010.

# Appendix One

## Our audit approach

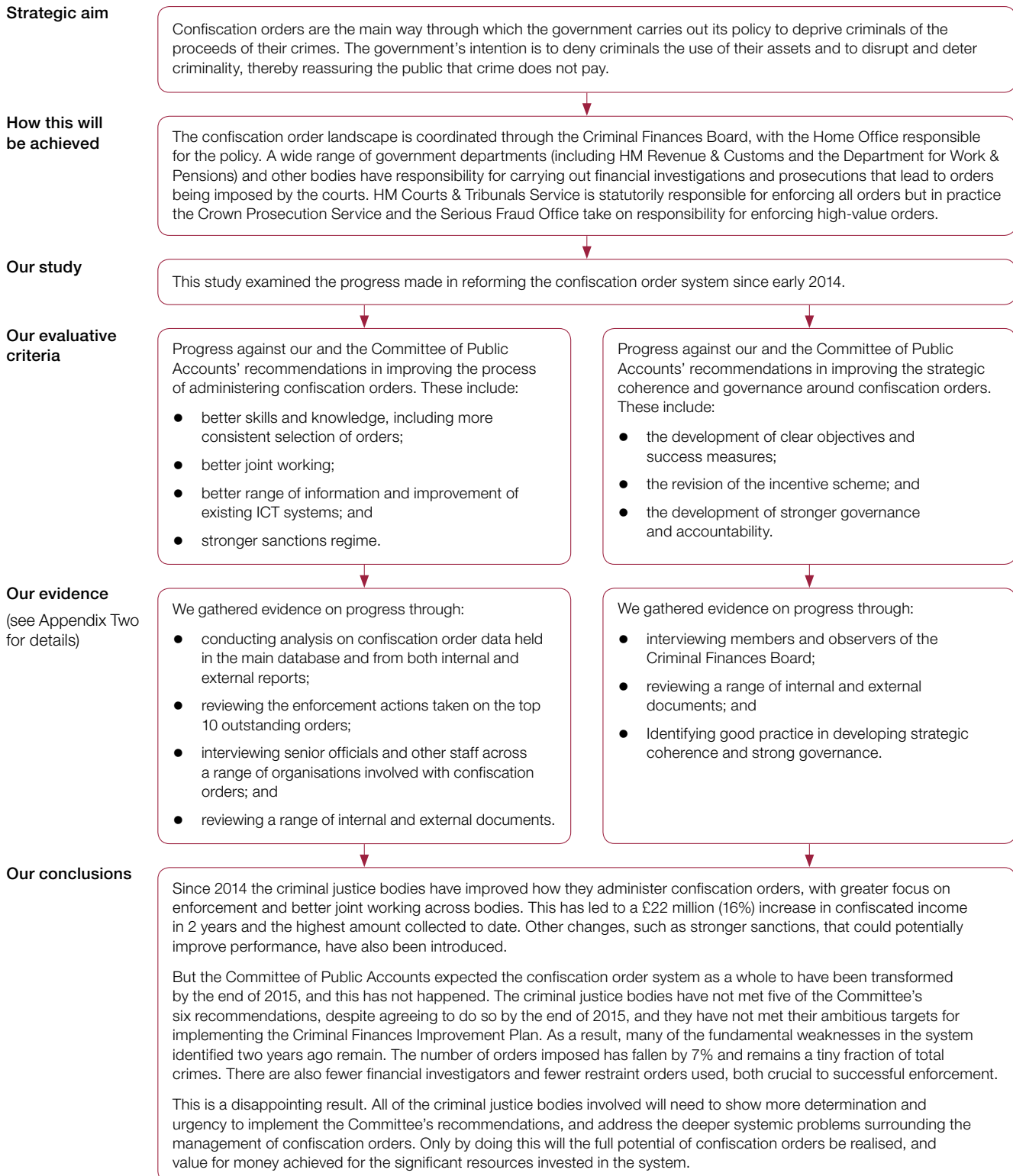
**1** This report reviewed the progress that the criminal justice bodies have made in reforming the confiscation orders system. This follows our findings and recommendations in December 2013 in *Criminal Justice System: Confiscation orders* and those of the Committee of Public Accounts in *Confiscation Orders* in March 2014. This report also considers the barriers that are still preventing further and faster progress, and how they can be overcome.

**2** We considered the progress made by the criminal justice bodies in improving:

- the process of administering confiscation orders from identifying criminal cases that could lead to an order through to enforcement; and
- the strategic coherence and governance around confiscation orders.

**3** Our audit approach is summarised in **Figure 11** overleaf. Our evidence base is described in Appendix Two.

**Figure 11**  
Our audit approach



# Appendix Two

## Our evidence base

**1** We reached our independent conclusions on whether the government has made progress in improving the way it administers confiscation orders following our analysis of evidence collected between June and October 2015. Our audit approach is outlined in Appendix One.

**2 We examined the progress made by the criminal justice bodies and the barriers they still face in improving the process of administering confiscation orders, from identifying potential cases through to enforcing orders.**

- We analysed data held in the main confiscation orders database (Joint Asset Recovery Database, JARD) as at September 2015 and in the performance reports of the Criminal Finances Board and specific bodies including the Crown Prosecution Service and the National Crime Agency since 2014. Our analysis included updating and comparing with the previous report:
  - the amounts and volumes imposed and collected (including for priority orders), the rate of enforcement and the outstanding debt;
  - the use of restraint orders; and
  - the number of financial investigators training or trained to use the full range of confiscation order powers.
- We compared financial data presented in HM Courts & Tribunals Service's annual Trust Statement between 2012-13 and 2014-15.
- We reviewed the enforcement action being taken on the top 10 outstanding orders through:
  - interviews with enforcement staff in the Crown Prosecution Service and Serious Fraud Office;
  - review of case file documents such as the Crown Prosecution Service's enforcement strategy documents; and
  - analysis of data held on the cases.

- We interviewed senior officials and other staff across a range of bodies, as outlined in Appendix Three. We analysed our interview data using specialist qualitative data analysis software.
- We reviewed a range of internal and published documentation across these bodies to support the changes made. These included Criminal Finances Board papers, improvement plans and a number of reports outlining successfully imposed and enforced orders.

**3 We assessed the progress made by the criminal justice bodies and the barriers still faced in improving strategic coherence and governance around confiscation orders.**

- We interviewed members and observers from 12 of the bodies that attend the Criminal Finances Board. We analysed our interview data using specialist qualitative data analysis software.
- We reviewed a range of internal and published documentation, including the Criminal Finances Board minutes and papers and individual bodies' strategies and plans.
- We identified good practice in developing strategic coherence and strong cross-government governance from our previous work.

# Appendix Three

## Main bodies involved with confiscation orders

**Figure 12**

Home Office	Responsible for government policy on criminal finances and asset recovery.
National Crime Agency	Responsible for training and accreditation of financial investigators. Also conducts its own financial investigations into some serious and organised crimes.
Ministry of Justice	Responsible for government policy on the criminal, civil and family justice systems for England and Wales. Oversees the courts, prisons and legal aid bodies involved with confiscation orders.
HM Courts & Tribunals Service	Overall responsibility for enforcing orders and reporting on them in its annual Trust Statement.
National Offender Management Service	Responsible for prisoners, including those serving for not paying confiscation orders.
Legal Aid Agency	Provides legal aid to offenders subject to confiscation proceedings, including administration of means testing to decide legal aid entitlement.
Crown Prosecution Service	Responsible for prosecuting cases and enforcing the more complex, high-value orders.
Serious Fraud Office	Responsible for investigating, prosecuting and enforcing the complex, high-value cases related to fraud, bribery and corruption.
HM Revenue & Customs	Carries out financial investigations into tax cases, and assists HM Courts & Tribunals Service with related confiscation order enforcement.
Department for Work & Pensions	Carries out financial investigations into benefits cases.
National Police Chiefs' Council (NPCC)	Replaced the Association of Chief Police Officers (ACPO) in April 2015. Professional forum for the chief police officers in England, Wales and Northern Ireland to share ideas and best practice and, in some areas, coordinate resources.
Regional Asset Recovery Teams (RARTs)	Regional teams responsible for investigating more complex cases, often on behalf of other law enforcement agencies.
Asset Confiscation Enforcement teams (ACE)	Teams responsible for providing financial investigator support to enforcement agencies (including regional teams co-located with RARTs).
Police forces	Carry out criminal and financial investigations on a wide range of crimes and criminals.
Crown Court judges	Make judgments regarding confiscation order imposition.
Magistrates	Make judgments on enforcement processes, including imposing default prison sentences.
Receivers	Private companies appointed by the courts to either manage or collect criminal assets.

Source: National Audit Office analysis

# Appendix Four

## Summary of progress against Committee of Public Accounts and National Audit Office recommendations

**Figure 13**

Area	Committee of Public Accounts recommendation	National Audit Office recommendation
1 More use and awareness of orders	<p><b>Not enough confiscation orders are imposed.</b> Law enforcement and prosecution agencies need to agree and apply a common set of criteria to ensure that they consider consistently and properly all crimes with a financial gain for confiscation orders.</p>	n/a
2 Better enforcement operations	<p><b>Not enough is being done to enforce confiscation orders once they have been made, especially in higher-value cases.</b> Law enforcement agencies should work together to ensure that financial investigators are brought in early in high-value cases and use restraint orders quickly to prevent criminals hiding their illegal assets.</p> <p>The Crown Prosecution Service and National Crime Agency should also report to the Criminal Finances Board on the enforcement progress of its priority cases.</p>	<p>The strategy should outline how orders should be prioritised for enforcement, including the use of specialist multi-agency teams.</p> <p>Increase skills and knowledge in proceeds of crime by doing the following:</p> <ul style="list-style-type: none"> <li>● Strengthen current training for law enforcement and the judiciary. This should include considering whether confiscation hearings should be heard by judges with specific expertise in this field.</li> <li>● Identify resource gaps, for example in analytical skills and the capacity of prosecutors to handle caseloads.</li> </ul>
3 More effective sanctions	<p><b>The sanctions imposed on offenders for failing to pay confiscation orders do not work.</b> The Home Office, in conjunction with the Ministry of Justice, must set out how, and by when, it will strengthen the confiscation order sanctions regime. The Joint Committee on the draft Modern Slavery Bill might include this in their deliberations.</p>	<p>Enforcement agencies, working with the Home Office, should review the effectiveness of current penalties, as part of strengthening enforcement powers and sanctions. They should also consider introducing wider criminal justice sanctions and powers, such as charging orders to seize property and community sentences.</p>



**Criminal Finances Board's target implementation date**

End of 2014

**National Audit Office assessment of progress****Weak**

The Crown Prosecution Service, in conjunction with law enforcement agencies, has not issued a common set of criteria to select cases. Law enforcement agencies continue to have their own aims and priorities for the use of confiscation orders. The Home Office believes that the use of confiscation orders is a tactical decision for local law enforcement agencies in their fight against crime, and central direction would only distort operational decision-making (paragraphs 1.13, 3.10 and 3.11).

End of 2014

**Weak/adequate**

The criminal justice bodies have made efforts to address the Committee's recommendations on enforcing orders including better joint working between bodies. They are also making changes in other areas but it is too early to assess impact, including better engagement with the financial services sector, overseas work and changes to legislation.

The enforcement bodies have a greater understanding of what is collectable and report progress of performance in enforcing high-value orders regularly to the Board (paragraphs 2.6 to 2.8 and 2.11 to 2.15).

The numbers of restraint orders used and financial investigators available have, however, both reduced since 2013. There has also been no change to judicial training on confiscation orders since 2013.

There is no nationally coordinated plan to improve the knowledge of law enforcement officers, although some bodies are taking individual actions to do so.

There also remains a lack of analytical and evidence-gathering capacity, although the Crown Prosecution Service is now increasingly using specialist prosecutors to help develop cases.

More generally, there has been little progress in increasing the profile of confiscation orders across law enforcement agencies, which remains low (paragraphs 1.9 to 1.12, 1.14, 1.15, 2.20 and 2.21).

May 2015

**Strong/adequate**

The Home Office, working with other bodies, has strengthened the sanctions regime. The Serious Crime Act, which became law in May 2015, includes longer default prison sentences for non-payers, and extra powers for judges to impose other sanctions, such as travel bans. Practitioners are, however, uncertain of the effects these will have as they have not yet been tested in court and the Home Office does not have the information to predict what the effect might be.

The policy of using 8% interest as a sanction has also not changed despite our 2013 finding that it was ineffective (paragraphs 2.9 and 2.10).

**Figure 13** *continued*

Area	Committee of Public Accounts recommendation	National Audit Office recommendation
4 Better performance and cost information	<p><b>The bodies involved with confiscation orders do not have the information they need to manage the system effectively.</b> All the bodies involved in confiscation need to develop a better range of cost and performance information to enable them to prioritise effort and resources to best effect.</p> <p>They also need to improve their existing ICT systems and their interoperability, as well as cleanse the data they hold.</p>	<p>All bodies involved in confiscation should work with the Cabinet Office to review their process management, by doing the following:</p> <ul style="list-style-type: none"> <li>● Address information gaps through data-cleansing and establish how to most cost-effectively develop more sophisticated time, cost and performance data. This should also include conducting a 'debt gap' exercise to more thoroughly understand their debt, including what is realistically collectable, and how to prioritise resources.</li> <li>● Consider the cost–benefit ratio of modernising case management, performance reporting and ICT systems so they are fully integrated to improve data-sharing and reduce manual data entry.</li> </ul>
5 Better planning	<p><b>Poor implementation of the confiscation order scheme has severely hampered its effectiveness.</b> The Criminal Finances Board should develop and implement its improvement plan urgently.</p> <p>This plan should include well-defined objectives and success measures so that practitioners can prioritise criminal cases and orders and be able to understand and measure success beyond amounts collected.</p> <p>The plan should also include project milestones that the Board can use to assess progress.</p>	<p>The Home Office, the Ministry of Justice and the Attorney General's Office and their bodies, working with law enforcement agencies, should develop a coherent and joined-up cross-government strategy for confiscation orders, including more effective governance.</p> <p>The strategy should define clear objectives and success measures that are aligned with other asset recovery measures, such as civil recovery and cash forfeited from criminals.</p> <p>HM Treasury should review the existing accountability arrangements, currently provided through the HM Courts &amp; Tribunals Service's Trust Statement, to reflect other bodies' activity in imposing and enforcing orders. The current Trust Statement has increased accountability for confiscation orders. However, this could be further improved with joint accountability by the bodies involved, including greater disclosure, for example on the number and value of cases enforced by bodies and transferred to HM Courts &amp; Tribunals Service.</p>
6 A more effective incentive scheme	<p><b>The incentive scheme to encourage the many bodies involved to confiscate proceeds of crime is opaque and ineffective.</b> The current incentive scheme for bodies involved in confiscation orders should be revised to ensure it is aligned with the success measures and objectives set out in the new Criminal Finances Improvement Plan and to link effort and reward.</p> <p>The Home Office should also ensure that there is proper reporting on the use made of scheme funds.</p>	<p>The strategy should reform the existing Asset Recovery Incentivisation Scheme (ARIS), including tightening controls and introducing incentives for contributing to the new strategy's objectives.</p>

Source: National Audit Office analysis

**Criminal Finances Board's target implementation date**

March 2015

**National Audit Office assessment of progress****Weak/adequate**

Relevant bodies have largely cleansed data thanks to improvement work on the Joint Asset Recovery Database. They have also conducted exercises to estimate collectability of existing orders. The Crown Prosecution Service has also made some improvements in its management information.

Overall, however, the criminal justice bodies have not developed more sophisticated time, cost and performance data, including introducing cost-benefit analyses in analysing and pursuing orders (paragraphs 2.15, 3.13 to 3.16).

March 2015

**Weak/adequate**

The Criminal Finances Board published its improvement plan in June 2014. Together with the Serious and Organised Crime Strategy, these are the first-ever overarching plans for criminal finances. Neither provide sufficient overall coherence, however, as they do not set out clear objectives or agreed success measures. As a result, bodies still cannot prioritise criminal cases or orders, and cannot measure success beyond amounts collected.

The Board has also not fully implemented its original improvement plan, despite a completion target date of March 2015. It has since revised the plan with new milestones and objectives (paragraphs 3.8 to 3.12 and Appendix Five).

More detail is now provided in HM Courts & Tribunals Service's Trust Statement, and in other bodies' annual reports, on confiscation orders. But there is no joint accountability in place, and more generally accountability lines remain tangled, undermining governance effectiveness (paragraphs 3.3 to 3.7, 3.17 and 3.18).

End of 2014

**Weak/adequate**

The Home Office has reviewed the scheme following a consultation across all ARIS recipients and made some improvements, such as using some of the funding to invest in new enforcement capability. There is also now better disclosure of how bodies spend incentive scheme monies. The Home Office considers that it has achieved its objective of reforming ARIS.




The incentive scheme as a whole, however, has not been reformed in the way recommended. Weaknesses, including a poor link between effort and reward, remain. The Home Office is looking at increasing the funding allocations to police forces from 2016-17 (paragraphs 3.19 to 3.23).




# Appendix Five

## Criminal Finances Improvement Plan

**Figure 14**  
Criminal Finances Improvement Plan 2014-15

Objectives	Main actions planned	Overall target dates	Criminal Finances Board assessment of progress (Note 1)
1 Enforcement and clearing the stock of unenforced orders	Analyse the stock of unenforced orders and prioritise cases for enforcement.	End of 2014	
2 To ensure we have effective powers	Strengthen the 2002 Proceeds of Crime Act with new legislation increasing default sentences.	April 2015	
3 To maximise the use of financial investigation techniques to disrupt serious and organised criminals	Embed financial investigation techniques in all organised crime investigations and increase use of restraint orders. Develop training and accreditation for financial investigators.	September 2014	
4 To drive up performance on cash forfeiture	Increase awareness and develop an improved intelligence picture. Develop a plan of activity to increase cash seizure at the border.	End of 2014	
5 Improve court processes	Consider the use of 'ticketed' judges and specialist asset recovery courts and allow low-value confiscation orders to be heard by magistrates.	End of 2014	
6 To work with the private sector to maximise asset recovery	Identify opportunities for forensic accountancy skills and explore options for the financial services sector to assist in the enforcement of orders.	End of 2014	
7 To strengthen our ability to recover assets hidden overseas	Post asset recovery advisers to priority jurisdictions and secure asset-sharing agreements. Implement EU mutual recognition of freezing and confiscation orders.	December 2014	
8 To ensure ARIS works	Review ARIS to incentivise activities, identify options to increase funding and be more transparent.	September 2014	

Objectives	Main actions planned	Overall target dates	Criminal Finances Board assessment of progress (Note 1)
9 Cross-cutting – improved administrative processes and ICT	Modernise the Joint Asset Recovery Database and develop plans to maximise its interoperability with new criminal justice ICT systems.	Mid-2015	
10 Cross-cutting – performance and governance	Develop performance metrics to measure the disruptive effect of criminal finance powers and review governance structures for criminal finances, including ministerial chair.	December 2014	
11 To improve public and internal communications on criminal finances	Increase awareness and create a public communications strategy.	No target	

-  Red
-  Amber red
-  Amber green
-  Green

**Notes**











- 1 The Criminal Finances Board's assessment of progress at 31 March 2015, when all plan objectives were scheduled to have been delivered.
- 2 The Criminal Finances Improvement Plan was issued as part of the government's response to the Committee of Public Accounts March 2014 report on confiscation orders.

Source: National Audit Office analysis

**Figure 15**  
Criminal Finances Improvement Plan 2015-16

Objectives	Cash seizure and forfeiture	CFB assessment of progress	Restraint and confiscation	CFB assessment of progress	Civil recovery and tax	CFB assessment of progress
Using our powers effectively	Review decision-making processes to improve rates of seizure and forfeiture	●	Ensure effective multi-agency working to increase payment of confiscation orders	●	Review existing powers and guidance to increase effectiveness	●
	Deliver improved guidance on the use of cash seizure and forfeiture provisions	●	Embed new powers to drive improved recovery	●	Review costs in civil recovery cases	●
Improving the intelligence picture	Roll out Joint Border Intelligence Units (JBUIs) to improve cash intelligence	●	Improve international enforcement of confiscation orders	●	Improve international enforcement of civil recovery orders	●
	Establish integrated cash intelligence database	●	Increase confiscation order data-sharing between agencies and with the financial sector	●	Introduce an early case review process to improve the quality of civil recovery referrals	●
New powers and legislative change	Review current definitions of cash under the 2002 Proceeds of Crime Act (POCA)	●	Explore options to write off or sell a proportion of outstanding orders	●	Develop options for civil recovery in lower-value, higher-volume cases	●
		●	Develop options to encourage early payment of confiscation orders and disrupt those who fail to pay	●	Review legislative blockers in tracing property, priority interests, foreign convictions and victims of theft	●
		●	Review options to mitigate cost risks in restraint cases	●	Examine options for an illicit enrichment offence and unexplained wealth order	●
			Consider powers to undertake confiscation in the magistrates' courts	●		

**Figure 15** *continued*  
Criminal Finances Improvement Plan 2015-16

Objectives	Cash seizure and forfeiture	CFB assessment of progress	Restraint and confiscation	CFB assessment of progress	Civil recovery and tax	CFB assessment of progress
Building capacity and capability	Establish joint cash teams at the border		Review minimum financial investigators and prosecutor and capability requirements for confiscation cases		Consider extension of civil recovery powers to additional agencies	
			Introduce enhanced training for a cadre of super-financial investigators for complex confiscation cases			
			Increase access to forensic accountancy skills			
<b>Cross-cutting support</b>	Improve understanding of criminal finances performance and disruptive impact					
	Improve effectiveness of the Joint Asset Recovery Database (JARD)					
	Implement the manifesto commitment to increase the percentage of Asset Recovery Incentivisation Scheme (ARIS) funds returned to the front line					
	Improve criminal finances communications; develop an effective narrative for senior officers, the media and the public					
	Keeping POCA up to date					

-  Red
-  Amber red
-  Amber green
-  Green

**Notes**

- 1 The refreshed Criminal Finances Improvement Plan for 2015-16 was approved by the Criminal Finances Board's members in June 2015.
- 2 The Criminal Finances Board's assessment of progress as at end of September 2015.

Source: Criminal Finances Board's Criminal Finances Improvement Plan 2015-16

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