

# PROCEEDS OF CRIME ACT - 20 YEARS ON

*By Helen Gregory*

Forensic Director



**The Proceeds of Crime Act (POCA), a pivotal piece of UK legislation enacted in 2002, has reached its 20-year milestone.**

This Act represents the Government's commitment to tackling money laundering and organised crime by allowing law enforcement to seize assets derived from criminal activities.

As we review two decades of its implementation, we see significant impacts and ongoing challenges.

### **Impact on Criminal Justice**

POCA's most notable impact lies in its transformation of the criminal justice landscape. The Act empowered authorities to seize, freeze, and forfeit criminal assets, significantly disrupting the economic foundations of organised crime.

The aim was for this to be a major deterrent to criminal activities and a tool for dismantling criminal networks. Whilst cynics may comment that only the low hanging fruit are picked off rather than the real kingpins, it has changed the focus of prosecutors.

There have been a number of landmark cases in recent years, where considerable sums have been recorded in excess of £20 million, with the highest case to date seeing more than £34 million seized.

## Growth and Effectiveness

A critical measure of POCA's effectiveness is its financial performance. In the financial year 2022 to 2023, £339 million was recovered through Confiscation Order, Forfeiture Order, and Civil Recovery Order receipts. This is 49 per cent higher than the six year median of £228 million.

While this figure is high it does represent a fall of five per cent on the previous period (2021 to 2022), which was the highest recorded at £345 million.

Notably, this recent surge in the value of assets recovered has largely been due to an increase in cases where the proceeds of crime recovered

exceeded £1 million for both Confiscation Order and Forfeiture Order receipts.

In the financial year 2022 to 2023, assets amounting to £572 million were also restrained, seized, or frozen under POCA.

A full breakdown of POCA's performance during the last five years is recorded [here](#).

Anecdotally, those involved in this work aim to ensure the proceeds actually confiscated exceed the costs of their department and provide a return to their agency. And at the figures reported, it would appear that this should be being achieved.

---

## Ever-evolving Legislation

POCA in the UK has undergone several changes to enhance its effectiveness in combating money laundering and organised crime. These amendments reflect evolving legal and criminal landscapes, aiming to make the Act more robust and adaptable to new challenges. Here's a summary of key changes:

### 1. **Asset recovery:**

Over the years, the targets for asset recovery under POCA have been revised upwards, reflecting the Government's growing commitment to fighting financial crimes.

### 2. **Improved efficiency:**

Various amendments have been made to streamline and improve the efficiency of the asset recovery process. This includes simplifying the legal procedures involved in seizing and forfeiting assets.

### 3. **Enhanced powers for law enforcement:**

Law enforcement agencies have been granted more extensive powers to investigate and recover assets. This includes increased authority to use surveillance and gather intelligence in financial crime cases.

### 4. **Expansion of the definition of criminal lifestyle:**

The definition of what constitutes a 'criminal lifestyle' under POCA has been broadened. This expansion allows for a wider range of crimes to be considered under the Act, enabling the seizure of assets from a broader spectrum of criminal activities.

### 5. **Introduction of new orders and measures:**

For example, Unexplained Wealth Orders (UWOs) have been introduced and, as with other POCA legislation, require individuals to explain and evidence the sources of their wealth.

### 6. **Strengthening International Cooperation:**

Amendments have been made to facilitate better international cooperation in the seizure and forfeiture of assets. This reflects the global nature of organised crime and money laundering.

### 7. **Updating compliance requirements for financial institutions:**

Changes have been made to the compliance requirements for banks and other financial institutions, making them more stringent. These institutions now face greater responsibility in monitoring and reporting suspicious activities.

### 8. **Adjustments for digital currencies and online platforms:**

As digital currencies and online platforms become more prevalent, POCA has been updated to address these new mediums of financial exchange and crime.

### 9. **Enhanced focus on human rights considerations:**

Recent amendments have also put a greater emphasis on balancing the powers under POCA with the protection of individual rights, reflecting a growing concern about civil liberties in asset recovery processes.

### 10. **Improvements in transparency and oversight:**

There have been efforts to improve the transparency and oversight of the processes under POCA, aiming to ensure that the powers are used appropriately and effectively.

*These changes highlight the UK's proactive stance in adapting its legal framework to counter evolving forms of financial crime and protect its financial systems from abuse.*

## Challenges and Controversies

Despite these successes, POCA has not been without its challenges and controversies. Critics have pointed out issues related to the implementation of civil recovery orders, raising concerns about potential infringements on the presumption of innocence.

Balancing effective law enforcement with the protection of individual rights remains a contentious aspect of POCA. And there is still the inherent deemed unfairness that the individual has to provide evidence of innocence, rather than for the prosecution to prove guilt, as to the source of funds.

## Implications for the Financial Sector

The financial sector has seen significant changes under POCA, with heightened compliance and monitoring requirements.

These measures, while increasing operational costs, have bolstered the financial system's resilience against money laundering activities.

However, despite the dangers of AML and fraud, as well as the threat of POCA, cases of complex fraud continue to come to trial. In these cases, it is often the actions of individuals that bring businesses into the spotlight and it has helped to highlight the value that forensic accountants can bring to investigations and prosecutions.

## International Cooperation

On an international scale, POCA has enhanced the UK's role in combating global money laundering and organised crime.

It aligns with standards set by international bodies like the Financial Action Task Force (FATF) and has fostered better international collaboration in asset recovery and criminal investigations.

## Final thoughts

Two decades on, the Proceeds of Crime Act remains a fundamental element of the UK's strategy against organised crime and money laundering.

Its record-breaking performance in recent years underscores its effectiveness. However, adapting to new challenges and ensuring a balance between law enforcement and civil liberties will be vital for POCA's future success.

# ARE YOU DOING ENOUGH TO PREVENT FRAUD?

*By James Hardy*

Forensic Analyst



**According to Government statistics, it is estimated that fraud was the most common crime in 2022, accounting for 41 per cent of all offences. However, typically fraud has been under reported so this figure may well be higher.**

In a bid to tackle fraud, the Government has introduced the Economic Crime and Corporate Transparency Act 2023, which received Royal Assent in October 2023 and is expected to come into force in 2024.

*The Act brings in the biggest changes to Companies House since corporate registrations were established in 1844.*

As well as enhancing the role of Companies House in fraud prevention, the Act has created a new offence, known as 'failure to prevent fraud', aimed at encouraging businesses to identify and prevent fraudulent transactions at the source.

## What does this mean for businesses?

This Act means that businesses are required to take reasonable steps to prevent fraud from occurring.

Whilst many businesses will already have procedures in place, with new regulations, the Government is seeking to tackle those who do not seek to prevent fraud and expose their customers and suppliers to undue risk.

In practice, it may mean that businesses need to reevaluate their approach to fraud prevention and assess their operations for weaknesses. At the very least, it will require them to review and assess their procedures on a regular basis to ensure that they are still fit for purpose.

---

## Taking steps to prevent fraud

New legislation requires all large businesses – including charities and other organisations – to have reasonable fraud prevention measures in place. These might include:

- Using secure authentication methods
- Implementing secure payment methods
- Education for customers on how fraudsters may target them
- Encrypting sensitive information
- Staff training on common types of fraud
- Random inventory and financial checks

---

## Protecting your business

It's likely that we're going to see an increase in corporate responsibility when it comes to preventing fraud, particularly for larger businesses. As this happens, business owners and decision-makers may well need to turn to expert support.

This legislation cannot be ignored by any business. Whilst it is aimed at large businesses, fraud prevention is likely to be inserted into contracts with suppliers as such companies will be deemed to be 'associated' with the organisation in question.

## Who can be convicted?

In its current form, the Act states that only large organisations fall into the scope of the offence. 'Large' is defined as having two of the following; more than 250 employees, £36 million or more in turnover and more than £18 million in total assets.

This will also apply to a parent company if the parents and its subsidiaries in aggregate meet at least two of the criteria.

If convicted of the offence, an organisation could receive an unlimited fine, which will be decided by the Court.

One important note is that, while individuals can already be prosecuted for committing or assisting fraud, they cannot be prosecuted for failing to prevent fraud under the new law.

If the risk of fraud is very low or non-existent, then it may also be considered reasonable to have no measures in place.

However, it is difficult to identify which organisations would match this criteria but, if they do, it will be key to document the thought process in reaching that conclusion in case the organisation is subject to fraud at some point in the future.

Leadership and training will be key. Policies and procedures indicating best practices are important but will not work unless fraud prevention forms part of the culture of the business.

[milstedlangdon.co.uk](http://milstedlangdon.co.uk) • [advice@milstedlangdon.co.uk](mailto:advice@milstedlangdon.co.uk)

**Bath office:**  
☎ 01225 904940

**Bristol office:**  
☎ 0117 945 2500

**London office:**  
☎ 0203 150 1113

**Taunton office:**  
☎ 01823 445566

**Yeovil office:**  
☎ 01935 383500

Disclaimer - for information of users: These articles have been prepared for general interest and it is important to obtain professional advice on specific issues. We believe the information contained in it to be correct as at the time of going to press. While all possible care is taken in the preparation of this article, no responsibility for loss occasioned by any person acting or refraining from acting as a result of the material contained herein can be accepted by Milsted Langdon. Milsted Langdon is a trading name of Milsted Langdon LLP, a limited liability partnership registered in England with LLP number OC329479.

MGI Worldwide is a network of independent accounting, legal and consulting firms. MGI Worldwide does not provide any services and its member firms are not an international partnership. Each member firm is a separate entity and none of MGI Worldwide, MGI Ltd., nor any member firm accepts responsibility for the activities, work, opinions or services of any other member firm. For more information visit [www.mgiworld.com/legal](http://www.mgiworld.com/legal)

A member of  
**mgi worldwide** 