

# Impact Assessment, The Home Office

**Title:** Powers to seize illicit cryptoassets  
(Economic Crime and Corporate  
Transparency Bill 2022)

**IA No:** HO0404

**Other departments or agencies:** N/A

**Date:** 13 January 2023

**Stage:** FINAL

**Intervention:** Domestic

**Measure:** Primary

**Enquiries:**

EconomicCrimeEngagement@homeoffice.gov.uk

**RPC Opinion:** Not Applicable

**Business Impact Target:** Non-qualifying regulatory provision

## Cost of Preferred (or more likely) Option (in 2019 prices)

Net Present Social Value NPSV (£m)		Business Net Present Value BNPV (£m)		Net cost to business per year EANDCB (£m)	
397.5		0.0		0.0	

### What is the problem under consideration? Why is government intervention necessary?

Cryptoassets are increasingly used by criminals to move and launder the profits of crimes including drugs, fraud and cybercrime. These assets cannot currently be recovered as easily as other criminal property, in part due to their unique technological qualities. There is no widespread evidence of terrorists using cryptoassets in the UK, but it is anticipated that they will increasingly use cryptoasset transactions to fund their activities in the future. Cryptoassets can be purchased by legitimate means, funding propaganda/attack planning or terrorist causes online.

### What are the strategic and policy objectives and the intended effects?

The strategic objective is to restore confidence in the criminal justice system, reduce crime and terrorism in the UK. The primary policy objective is to bring cryptoassets within the scope of civil forfeiture powers in Part 5 of POCA 2002 and ensure that forfeiture powers are accompanied by supplementary investigative powers. The criminal confiscation regime in Part 2 of the Proceeds of Crime Act 2002 (POCA 2002) will also be amended. This involves altering existing powers (predominantly seizure powers) to ensure that they can be used more effectively in cases involving cryptoassets. See section C for more detail.

### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

**Option 1:** Do-nothing' this does not meet the Government's objectives.

**Option 2:** Amend the criminal confiscation regime in Part 2 of POCA 2002 and bring cryptoassets within the scope of civil forfeiture powers in Part 5 of POCA 2002. Ensure that forfeiture powers are accompanied by supplementary investigative powers, similar to those for forfeiture of cash, listed assets and funds in certain accounts. **This is the Government's preferred option.**

Main assumptions/sensitivities and economic/analytical risks	Discount rate (%)	3.5
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The data and assumptions surrounding cryptoassets are limited due to the technology being relatively new and rapidly changing. It is also sensitive, and many figures and police data are not suitable for the public domain. Proxies have been used where possible and costs and benefits have been described qualitatively instead of quantitatively in some cases, which poses analytical risks.

**Will the policy be reviewed?** It will be reviewed. If applicable, set review date: October 2026

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits, and impact of the leading options.*

Signed by the responsible Minister: \_\_\_\_\_



Date: \_\_\_\_\_

23/01/2023

# Summary: Analysis & Evidence

# Policy Option 2

Description: Powers to seize illicit cryptoassets (Economic Crime Bill 2022)

## FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2021/22	PV Base	2021/22	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	104.3	High:	1,482.7	Best:	397.5	Best BNPV	0.0	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	1.0	2.4	3.3	0.4	0.1
High	17.1	221.8	238.9	27.5	1.9
Best Estimate	6.8	26.1	32.9	3.7	0.4

### Description and scale of key monetised costs by 'main affected groups'

Familiarisation and training costs to the public are estimated in a range of **£1.0 to £17.1 million**, with a central estimate of **£6.8 million** (2021/22 prices) in year 1 only. Total ongoing costs are estimated in a range of **£2.4 to 221.8 million** (PV), with a central estimate of **£26.2 million** (PV) over 10 years. Total costs are estimated in a range of **£3.4 to £239.0 million** (PV), with a central estimate of **£32.9 million (PV)** over 10 years. Law Enforcement Agencies (LEAs) will incur the majority of the costs.

### Other key non-monetised costs by 'main affected groups'

There is the potential cost of the storage of seized illicit cryptoassets.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.0	107.6	107.6	12.5	0.0
High	0.0	1,721.5	1,721.5	200.0	0.0
Best Estimate	0.0	430.4	430.4	50.0	0.0

### Description and scale of key monetised benefits by 'main affected groups'

Total benefits are estimated in a range of **£107.6 to £1,721.5 million** (PV), with a central estimate of **£430.4 million** (PV) over 10 years. All the benefits fall to the public sector and are derived from asset recovery receipts.

### Other key non-monetised benefits by 'main affected groups'

There are no non-monetised benefits.

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:									
Cost, £m	0.0	Benefit, £m	0.0	Net, £m	0.0				
Score for Business Impact Target (qualifying provisions only) £m:					N/A				
Is this measure likely to impact on trade and investment?					No				
Are any of these organisations in scope?		Micro	Y	Small	Y	Medium	Y	Large	Y
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				Traded:	N/A	Non-Traded:	N/A		

## PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 1)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	N
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# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Strategic Objective

1. Criminals continue to be relentless in their pursuit of financial gain and the Government's collaborative efforts must exceed their relentlessness.
2. It is anticipated that cryptoassets will increasingly be used for terrorist activities, including attack planning, propaganda and donations to smuggle persons of terrorist concern out of Internally Displaced People camps, such as those in Syria.
3. The strategic objective of these proposals is to reduce crime and to inhibit the use of cryptoassets being used for criminal and terrorist purposes.
4. This intervention is one of several interventions considered as part of a package of measures proposed to tackle economic crime and terrorist financing, through the Economic Crime and Corporate Transparency Bill. The Government has responded to operational agencies' and others concerns, and has heard the case for legislative reform, to improve our response to both economic crime and counter-terrorism measures.
5. This includes amending the existing powers under Part 2 of POCA 2002 to improve existing powers so cryptoassets can be seized in more circumstances than they can at present. This means that those assets can be confiscated at a later date. It also means bringing in 'cryptoasset' as a relevant asset class under Parts 5 of POCA 2002 so that cryptoassets can be recovered by more agencies (currently only five agencies can recover cryptoassets using civil powers) and to provide agencies who already have the powers with sufficiently more flexible options for recovering cryptoassets.
6. The measures considered in this IA relate to a series of proposals aimed at equipping LEAs with the right tools to seize cryptoassets and strengthen their ability to recover the proceeds of crime.
7. This legislative reform includes near replication of current powers for the recovery, seizure and forfeiture of terrorist cash and (terrorist) listed assets, to include cryptoassets under Parts 1-3, 4A and 4B of Anti-terrorism, Crime and Security Act 2001 (ATCSA 2001). In addition, these reforms will add cryptoasset exchange providers and cryptoasset custodian wallet providers to "*authorised deposit takers*" and "*relevant financial institutions*" under both ATCSA 2001 and Schedule 6 and 6A of Terrorism Act 2000 (TACT 2000) in relation to account monitoring and freezing orders.

### A.2 Background

8. Nearly all crimes are motivated by greed and profit. This is especially true of serious and organised crimes (such as corruption, money laundering, ransomware attacks and terrorism-financing) which is estimated to cost the UK economy £37 billion per year.<sup>1</sup>
9. To address this, broad powers to trace, investigate and recover illicit finance are provided for in POCA 2002. £1.6 billion was taken from criminals between April 2010 and March 2018 using the POCA 2002 powers, significantly curtailing their ability to further crime.<sup>2</sup>
10. The rapid development and evolution of cryptoassets along with its pseudo-anonymous methods to assist in the movement of funds using advanced technology and rapid transaction speeds, has meant that this technology is exploited by criminals. The Government has a responsibility to ensure that LEAs have the right legislative framework in place to recover cryptoassets. Without it, those assets could be used to fund further criminality.

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<sup>1</sup> [PCC Briefing - National Crime Agency](#)

<sup>2</sup> [Asset Recovery Action Plan Version 15 June 2018 \(publishing.service.gov.uk\)](#)

11. POCA 2002 already provides a number of mechanisms through which LEAs can use to safeguard property/assets pending the outcome of recovery proceedings. Under Part 2 of POCA 2002, restraint provisions allow any property held by an individual to be restrained pending potential confiscation proceedings, (post-conviction) if there is a risk of dissipation. Seizure provisions will also enable the powers to seize cryptoassets to be used while an individual is pre-arrest. The current seizure powers can only be used once an arrest has been made.
12. Similarly, civil recovery powers under Part 5 of POCA 2002 are a useful alternative route for LEAs to make an important contribution to the reduction of crime where an individual has not been convicted of a criminal offence, or suspects are overseas and there is no realistic prospect of securing a criminal conviction. Powers in Chapter 2 of Part 5 POCA 2002 can be used to freeze property, with a value over £10,000. Civil forfeiture powers, for example, cash seizure provisions can be used to seize cash listed assets and funds in accounts of a value over £1,000.
13. However, criminals are constantly changing the way they operate. Proceeds of crime are increasingly held in the form of cryptoassets, digital forms of assets, which cannot currently be recovered relative to criminal funds held in financial institution accounts.
14. The threat of cryptoassets being exploited by criminals is more apparent than ever before. The National Crime Agency's National Strategic Assessment noted a particular acceleration in the criminal use of these assets during the pandemic.<sup>3</sup> Further, cryptoassets are one of only a few accepted payment mechanisms most used by cyber criminals demanding payment following a ransomware attack. These attacks are increasingly common and pose a significant threat to the UK public and businesses.
15. Whilst section 23 of TACT 2000 allows the court to make a forfeiture order, this only applies if the individual has already been convicted of a terrorist offence under sections 15-18. Section 23A provides the court with forfeiture powers following convictions for other terrorist offences or offences with a terrorist connection. Meaning that there are no routes in TACT 2000 for a seizure without that conviction first.
16. In addition, Counter-terrorism police currently have no seizure or forfeiture powers under ATCSA 2001, as this legislation does not include cryptoassets under the definition of 'terrorist cash' or '(terrorist) listed assets' meaning that the police are having to use other legislative measures, such as the Police and Criminal Evidence Act 1984 (PACE 1984) powers or applying for a Targeted Equipment Interference (TEI) warrant under the Investigatory Powers Act 2016 (IPA 2016), in order to recover, seize and preserve the cryptoassets from being used for a terrorist purposes. Neither PACE 1984 nor a TEI are suitable for the fast-paced nature of cryptoassets. The TEI in particular, requires CTP to have known about the cryptoassets before any search takes place, potentially allowing the suspect to transact the cryptoassets before any TEI can be granted.
17. A further distinction between POCA 2002 and CT legislation is that it is also the requirement in all CT cases that the police will want to seize the cryptoassets before any terrorist activity or act has been committed, which is not the same as in criminal cases, where the cryptoassets themselves could be proceeds of a crime.
18. The Joint Terrorism Analysis Centre (JTAC), assessed that the use of cryptoassets by terrorist groups and individuals of terrorism concern could be exploited to raise and move funds for terrorist activities in the future. For example, donations made via cryptoasset wallets fund the smuggling of individuals of concern for terrorism-related matters out of internally displaced people camps in Syria.
19. The Home Office has a responsibility to strengthen its legislative response to provide LEAs with the most effective and efficient powers to help seize and restrain cryptoassets and reduce the amount of proceeds of crime being run through the crypto-ecosystem. Without it, those assets may be used to fund further criminality.
20. To ensure the Home Office delivers on its aims, the Government needs to strengthen its legislative response.

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<sup>3</sup> [file \(nationalcrimeagency.gov.uk\)](https://www.nationalcrimeagency.gov.uk)

### **A.3 Groups Affected**

21. The groups affected by this legislation (familiarisation and potential ongoing costs) include:
- The LEAs, as they will need to familiarise themselves with the new legislation.
  - Regulatory bodies (such as the Financial Conduct Authority (FCA)) who have to familiarise themselves with the new legislation and assist with any future regulation they create.
  - The Criminal Justice System (CJS), where a power to search is sought and where forfeiture of the property is sought. The High Court may also have to specifically adjudicate on issues of associated and joint property ownership.
  - The Regulated Sector, as defined in Schedule 9 of POCA 2002, which includes cryptoasset exchanges and custodian wallet providers.
  - Overseas governments and other international inter-governmental bodies (such as the Financial Action Task Force (FATF)). The crypto-ecosystem spans across multiple jurisdictions. This extra-territorial element of cryptoassets means that issues occurring in one state could affect another. It is likely that LEAs across states, will need to work with their overseas counterparts or work with exchanges in other states in order to trace illicit cryptoassets. As this is a relatively new space, any legislation will be of interest to others. For example, FATF develops and promotes policies to protect the global financial system against money laundering, terrorist financing, and financing of proliferation of weapons of mass destruction. It is likely to familiarise itself with the UK's measures to combatting some of these issues and their connection with cryptoassets.
  - The general public whose safety and security are impacted by the threat of serious and organised criminals who laundering the proceeds of their crimes through cryptoasset platforms.

### **A.4 Consultation**

22. A targeted consultation was conducted throughout November 2021 with a number of public<sup>4</sup> and private sector stakeholders. A provisional policy proposal paper was distributed to the stakeholders seeking feedback and suggestions on the proposals, with defined questions on cryptoassets. A series of roundtable events were also hosted to gather targeted feedback on the proposed legislative amendments, including a workshop.
23. The Government will continue to engage and consult with LEAs and the private sector (including Non-governmental Organisations, NGOs) to ensure an open avenue for continuous feedback and views during the Bill's passage.

## **B. Rationale for intervention**

24. Cryptoassets are increasingly being used by criminals to move and launder the profits of various crimes including drugs, fraud and cyber-crime. Intervention is required to facilitate faster and more efficient processes for the seizure of cryptoassets, and to ensure that these assets can be recovered relative to other assets such as cash and precious metals.
25. The existing POCA 2002 powers under section 47C were only principally designed for LEAs to take action against 'realisable' (tangible) assets such as cash as well as existing forfeiture provisions in POCA 2002 which cannot be used to recover criminal cryptoassets, because cryptoassets are not in scope of the cash or 'listed assets' forfeiture powers. Custodian wallet providers/crypto-asset exchanges are also not in scope of account forfeiture powers. The Home Office wants to ensure the

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<sup>4</sup> The Home Office consulted extensively with the NCA, Crown Prosecution Service (CPS), Serious Fraud Office (SFO), FCA, HM Revenue and Customs (HMRC) and the devolved administrations.

Government has powers that explicitly relate to cryptoassets in order to to disrupt activity where it is a means of moving illicit assets or of storing their value, and having these items listed in POCA 2002.

26. Current CT legislation does not include any powers to recover, seize and preserve cryptoassets, as these are not currently listed as terrorist cash or (terrorist) listed assets under ATCSA 2001. Nor can the police seize cryptoassets under TACT 2000, unless the individual(s) has already been convicted of an offence under sections 15-18 of the Act. Counter Terrorism policing are currently utilising section 19 of PACE 1984 powers, but these require the cryptoasset device to be logged on and open in order to seize the cryptoassets. The other method currently being used is a TEI warrant, but this requires prior knowledge of the cryptoassets before the warrant is carried out. Both are considered to be grey areas for successfully convicted cryptoasset cases. As with POCA 2002, CT legislation needs to be brought up to date to ensure that law enforcement have the necessary tools and powers to effectively search, recover, seize and forfeit cryptoassets.

## C. Policy objective

27. Criminals are increasingly finding creative ways to move, hide or use the proceeds of crime. The Government aims to ensure that LEAs have the powers to recover cryptoassets relative to other assets, such as cash or precious metals, in order to maximise opportunities to disrupt criminal finances. Amendments to Parts 1-3, 4A & 4B of the ATCSA 2001 and Schedules 6 & 6A of the TACT 2000, are crucial to ensure that CT police can effectively search for, recover, seize and forfeit cryptoassets, as part of an ongoing investigation or where the cryptoassets are suspected of being for a terrorist purpose. To achieve this, the Government proposes to:
- Improve the way powers in Part 2 of POCA 2002 can be used in England and Wales in relation to cryptoassets. For example, the requirement in section 47B of POCA 2002 could be revised, this would enable assets to be seized in the course of a criminal investigation pre-arrest.
  - Bring cryptoassets more clearly within the scope of civil forfeiture powers in Part 5 of POCA 2002. These powers would be simple and user friendly for LEAs.
  - Ensure that forfeiture powers are accompanied by supplementary investigative powers, similar to investigatory powers that exist to support the forfeiture of cash, listed assets and funds in certain accounts.
  - Mirroring of the civil forfeiture related powers in CT legislation to provide sufficient flexibility to be able to effectively suppress the risk that cryptoassets become increasingly used for terrorist purposes.

## D. Options considered and implementation.

**Option 1:** 'Do nothing'.

28. **Option 1** would entail no further government intervention, keeping the current legislation unchanged and does not meet the Government's objectives.

**Option 2:** Introduce powers to facilitate the recovery of cryptoassets where agencies have reasonable suspicion that cryptoassets may have been obtained or derived from criminal activities. **This is the Government's preferred option.**

29. **Option 2** includes amendments to the confiscation regime in Part 2 of the POCA 2002 to account for cryptoassets and their associated technology. It also involves amendments to the civil recovery regime for England and Wales and the whole of the UK contained in Part 5 POCA 2002. It will deliver a new legislative framework for the forfeiture of cryptoassets, where the assets in question are

recoverable property or intended for use in unlawful conduct. It requires legislative changes to the following:

- a. Parts 2, 3,4, 5 and 8 of POCA 2002; and
- b. Schedule 1 of the ATCSA 2001 and Schedule 6 the TACT 2000.

## E. Appraisal

### General assumptions and data

30. The general assumptions used in this IA are as follows:

- The appraisal period for measuring the impacts is 10 years, starting in 2022/23.
- A 3.5 per cent annual social discount rate is used, as per HMT Green Book guidance.<sup>5</sup>
- Annual costs and benefits are in 2021/22 prices.
- All costs and benefits are relative to the **Option 1: 'Do Nothing'**..
- Available figures and evidence of illicit and recoverable cryptoassets are often classified as sensitive so it is not possible to publish them publicly. For this reason, some of the identified costs and benefits are presented in qualitative terms.

### Appraisal

#### COSTS

##### Set-up costs

31. Cryptoasset exchanges are not obliged to respond to LEAs for requests for information or freezing of an account, unless there is a court order. However, many cryptoasset exchanges are compliant and cooperative and also already respond to information request from LEAs about suspected accounts. Exchanges proactively engage with LEAs through the submission of a suspicious activity report (SAR), so there are not expected to be significant set-up costs outside of what is currently being done by cryptoasset exchanges and LEAs. The main difference is less ambiguity to act on suspected accounts
32. There are some monetised set-up costs for the proposed legislative change.

##### Private sector familiarisation costs

33. There are also familiarisation costs expected to occur in the private sector in year 1, affecting cryptoasset exchanges. These will be incurred by caseworkers who may have to engage with law enforcement, and therefore will need to familiarise with the measures. It is assumed that the caseworkers and admin staff will have to read 1,000 words (a range of 750 to 1,250, some using a screen, others using paper copies). There are currently 31 cryptoasset exchanges registered officially with the FCA6, and it is assumed that in the low, central and high estimates that 2, 3 and 4 caseworkers from each exchange will need to familiarise. A large cryptoasset exchange provided some data related to LEA engagement and advised what the average hourly cost of a caseworker is. Salary.com was used to gather low, central and high estimates for the costs.<sup>7</sup> This was provided in USD and was converted to GBP using the 2021 yearly average exchange rate.<sup>8</sup> The final hourly cost was £21.26 in the low estimate, £24.41 in the central estimate and £27.56 in the high estimate.

<sup>5</sup> [The Green Book and accompanying guidance and documents - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/green-book-and-accompanying-guidance-and-documents.pdf)

<sup>6</sup> [Registered Cryptoasset Firms \(fca.org.uk\)](https://www.fca.org.uk/register/cryptoasset-firms)

<sup>7</sup> [Salary.com - Salary Calculator, Salary Comparison, Compensation Data](https://www.salary.com)

<sup>8</sup> [HMRC yearly average and spot rates - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101222/green-book-and-accompanying-guidance-and-documents.pdf)

34. The values used to estimate familiarisation costs to cryptoasset exchanges is presented in table 1 as given:

*reading time x wage x volume of case workers*

**Table 1, Familiarisation costs to cryptoasset exchanges, (wage £, hrs, volumes, £ million 2021/22 prices), 2022.**

Estimate	No. of firms	No. readers in each firm	No. words read	Reading speed (wpm)	Average time familiarisation (hrs)	Cost per hour (£)	Total cost (£m)
<b>Low</b>	31	2	750	700	0.02	21.26	<b>0.00</b>
<b>Central</b>	31	3	1,000	400	0.07	24.41	<b>0.00</b>
<b>High</b>	31	4	1,250	200	0.17	27.56	<b>0.00</b>

Source: Engagement with a large cryptoasset firm, HMRC yearly average and spot rates, Salary.com, Readingsoft,

35. Estimated familiarisation costs to cryptoasset firms lie in a range of **£0.0 to £0.0 million**, with a central estimate of **£0.0 million** (2021/22 prices) in year 1 only. Business engagements during the targeted consultation did not indicate that any additional dissemination of information costs or training would be needed, so these costs are not included in the familiarisation costs to businesses.

### Public sector familiarisation costs

36. It is assumed that all law enforcement officers in the UK will have to read 1,000 words (a range of 750 to 1,250, some using a screen others using paper copies)<sup>9</sup> to become familiar with the new legislation and powers, regardless of whether or not they will use the powers in their day to day work. It is assumed that there are 135,300 total police officers, 106,800 which are of the rank constable, 19,200 sergeants and 9,300 higher ranking officers.<sup>10</sup> The Home Office's staff cost model was used for the wage rate of these ranks. The hourly cost of a constable is £33.57, the average wage for a sergeant is £42.64 and the average wage for ranks higher than sergeant is £112.85.
37. The values used to estimate the police officer familiarisation costs is presented in table 2 as given:

*reading time x (hourly cost) x volume of police officers*

**Table 2, Familiarisation costs to constables, (wage £, hrs, volume, words per minute, £ million 2021/22 prices) 2022.**

Estimate	Constable volume	Constable cost per hour (£)	Words	Reading Speed (wpm)	Average time familiarisation (hrs)	Total cost (£m)
<b>Low</b>	106,800	33.57	750	700	0.02	<b>0.1</b>
<b>Central</b>	106,800	33.57	1,000	400	0.07	<b>0.3</b>
<b>High</b>	106,800	33.57	1,250	200	0.17	<b>0.6</b>

Source: Police Workforce Statistics (E&W, March 2021), readingsoft.com, HO Staff Cost Model (0.7).

<sup>9</sup> [Speed Reading Test Online \(readingsoft.com\)](https://www.readingsoft.com)

<sup>10</sup> <https://www.gov.uk/government/statistics/police-workforce-england-and-wales-31-march-2021/police-workforce-england-and-wales-31-march-2021>

**Table 3, Familiarisation costs to sergeants, (wage £, hrs, volume, words per minute, £ million 2021/22 prices) 2022.**

Estimate	Sergeant volume	Sergeant hourly cost (£)	Words	Reading speed (wpm)	Average time familiarisation (hrs)	Total cost (£m)
<b>Low</b>	19,200	42.64	750	700	0.02	<b>0.0</b>
<b>Central</b>	19,200	42.64	1,000	400	0.07	<b>0.1</b>
<b>High</b>	19,200	42.64	1,250	200	0.17	<b>0.1</b>

Source: Police Workforce Statistics (E&W, March 2021), readingsoft.com, HO Staff Cost Model (0.7).

**Table 4, Familiarisation costs to higher ranking police officers, (wage £, hrs, volume, words per minute, £ million 2021/22 prices) 2022.**

Estimate	Higher ranking police officer volume	Higher ranking police officer hrly cost (£)	Words	Reading speed (wpm)	Average time familiarisation (hrs)	Total cost (£m)
<b>Low</b>	9,300	112.85	750	700	0.02	<b>0.0</b>
<b>Central</b>	9,300	112.85	1,000	400	0.07	<b>0.1</b>
<b>High</b>	9,300	112.85	1,250	200	0.17	<b>0.2</b>

Source: Police Workforce Statistics (E&W, March 2021), readingsoft.com, Home Office Staff Cost Model (0.7).

38. Estimated familiarisation costs to the police lie in a range of **£0.1 to £0.9 million**, with a central estimate of **£0.4 million** (2021/22 prices) in year 1 only.
39. There are familiarisation costs expected to be occurred by the courts system in the first appraisal year. These will be incurred by judges and HMCTS admin staff who will need to familiarise themselves with the new powers. It is assumed that judges and HMCTS admin staff will have to read 1,000 words (a range of 750 to 1,250, some using a screen, others using paper copies). Total HMCTS staff is around 17,000<sup>11</sup> and there are 5,025 judges<sup>12</sup> in the UK. It is assumed that only a proportion of HMCTS staff and judges will work on cryptoasset cases. In 2020, 45 per cent of all cases that went through the court system were civil cases.<sup>13</sup> This proportion is applied to the total number of judges and HMCTS staff to estimate the high scenario of how many would need to familiarise, with a low and central proportion of 10 per cent and 25 per cent respectively. The wage rate for judges are from the Ministry of Justice (MoJ) judicial salaries<sup>14</sup>. The cost of a magistrates court judge is £148,820 and for a High Court Judge is £192,679<sup>15</sup>, an average of the two figures is taken. This is divided by working hours, assumed to be 7 hours per day, to get the estimated hourly cost of a judge<sup>16</sup>. The 25<sup>th</sup>, 50<sup>th</sup> and 75<sup>th</sup> percentile wage rate for National government administrative occupations (SOC 4112) has been taken from the ASHE 2021 survey to be used as the low, central and high wage rate of HMCTS staff.
40. The values used to estimate the HMCTS staff familiarisation costs is presented in table 3 as given:

$$\text{reading time} \times (\text{wage} \times \text{non-wage uplift of 22\%}) \times \text{volume of staff}$$

<sup>11</sup> [About us - HM Courts & Tribunals Service - GOV.UK \(www.gov.uk\)](https://www.gov.uk/about-us-hm-courts-tribunals-service)

<sup>12</sup> [Diversity of the judiciary: Legal professions, new appointments and current post-holders – 2021 Statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/diversity-of-the-judiciary-legal-professions-new-appointments-and-current-post-holders-2021-statistics)

<sup>13</sup> [Court statistics for England and Wales - House of Commons Library \(parliament.uk\)](https://parliament.uk/court-statistics-for-england-and-wales)

<sup>14</sup> [judicial-fee-salary-21-22.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/judicial-fee-salary-21-22.pdf)

<sup>15</sup> Salary groups 4 and 5.1.

<sup>16</sup> Judges are assumed to work 253 days a year, given 104 weekend days, 30 days annual leave and 10 days public holidays. Court sitting is 10:30am to 4:30pm but judges work into the evening/at weekends and are not paid overtime for this, therefore it is assumed that their working day is on average 7 hours. [Working hours | Courts and Tribunals Judiciary](#)

**Table 5, Familiarisation costs to HMCTS staff, (wage £, hrs, volume, words per minute, £ million 2021/22 prices) 2022.**

Estimate	Volume	Words	Reading speed (wpm)	Average familiarisation time (hrs)	Cost per hour (£)	Total cost (£m)
Low	1,700	750	700	0.02	13.36	<b>0.00</b>
Central	4,300	1,000	400	0.07	16.75	<b>0.00</b>
High	7,600	1,250	200	0.17	18.36	<b>0.02</b>

Source: HM Courts & Tribunals Service, court statistics for England and Wales, Readingsoft, ASHE Table 14.5a, 2021. SOC = Standard Occupational Classification, Eurostat

41. Estimated familiarisation costs to HMCTS lie in a range of **£0.0 to £0.0 million**, with a central estimate of **£0.0 million** (2021/22 prices) in year 1 only.
42. The values used to estimate familiarisation costs to judges is presented in table 4 as given:

$$\text{reading time} \times (\text{wage} \times \text{non-wage uplift of 22\%}) \times \text{volume of judges}$$

**Table 6, Familiarisation costs to judges, (wage £, hrs, volumes, £ million 2021/22 prices), 2022.**

Estimate	Volume	Words	Reading speed (wpm)	Average familiarisation time (hrs)	Cost per hour (£)	Total cost (£m)
Low	500	750	700	0.02	84.36	<b>0.00</b>
Central	1,300	1,000	400	0.07	84.36	<b>0.01</b>
High	2,300	1,250	200	0.17	84.36	<b>0.03</b>

Source: MOJ statistics, court statistics for England and Wales, Readingsoft, MoJ Judicial Fees. SOC = Standard Occupational Classification, Eurostat

43. Estimated familiarisation costs to Judges lie in a range of **£0.0 to £0.0 million**, with a central estimate of **£0.0 million** (2021/22 prices) in year 1 only.
44. It is expected that LEA financial investigators are going to require training, such as training on cryptoassets. Engagement with LEAs suggests there are two main training courses and one certification for financial investigators; a foundation course, an advance course, and a certification for a forensic tool, costing £1,200, £1,200 and £1,000 respectively. It is assumed in the low scenario that investigators will undergo just the foundation course. In the central scenario the investigators will undergo the foundation course and obtain a certification for a forensic tool. In the high scenario they will undergo all training courses. Data from the Active Financial Investigation Support System (FISS) records for the end of January 2022<sup>17</sup> provides a summary of the number of financial investigation staff in various roles.

<sup>17</sup> Active FISS records, PoCC January 2022.

**Table 7, Financial Investigation staff volumes, 2022.**

<b>Role</b>	<b>Volume</b>
<b>FIO Trainee</b>	405
<b>FIO</b>	1,760
<b>FI Trainee</b>	134
<b>FI</b>	602
<b>Trainee Confiscator</b>	126
<b>Confiscator</b>	928
<b>SAO</b>	153
<b>Tutor</b>	641
<b>Total</b>	<b>4,749</b>

Source: Active FISS records, January 2022

45. The high scenario assumes that all financial investigation staff will undergo training, which totals 4,749 personnel. The central estimate assumes that both Financial Investigators and Financial Intelligence Officers will require the training, totalling 2,901, and the low estimate assumes only Financial Investigators will need the training, 736 in total.

**Table 8, Training costs for financial investigation staff, (£, volume, £ million 2021/22) 2022.**

<b>Scenario</b>	<b>Training cost (£)</b>	<b>Volume</b>	<b>Total cost (£m)</b>
<b>Low</b>	1,200	740	<b>0.9</b>
<b>Central</b>	2,200	2,900	<b>6.4</b>
<b>High</b>	3,400	4,750	<b>16.1</b>

Source: Engagement with LEAs, Crime Agency's Proceeds of Crime Centre

46. Estimated training costs to financial investigation staff lie in a range of **£0.9 to £16.1 million**, with a central estimate of **£6.4 million** (2021/22 prices) in year 1 only.

### **Non-monetised set-up costs**

47. There are non-monetised set up costs expected to be incurred by the courts and by LEAs in the first appraisal year:
- The amendment to civil forfeiture powers will create a new cost to LEAs where training must be updated with information on securely storing and maintaining cryptoassets which have been recovered and are now in the possession of the LEAs, pending the outcome of the final proceedings.
  - The amendment to both the civil forfeiture powers (Part 5 POCA 2002) and criminal confiscation powers (Part 2 POCA 2002) alongside amendment to Parts 1-3, 4A and 4B of ATCSA 2001, and to Schedules 6 and 6A TACT 2000, will create a new cost to courts where information and training must be updated to reflect the use of the powers and the way in which the court system deals with requests to enact these powers, costs are expected to be marginal.
  - Compliance costs will be negligible, although this is a new regime. Banks are used to following regulations and compliance with asset recovery orders, however cryptoasset exchanges and custodian wallet providers (as defined in Schedule 9 of POCA 2002) are less accustomed to these processes.

## Ongoing costs

### Cases of cryptoassets under investigation

48. The amount of suspicious cryptoasset activity or cryptoasset accounts provides the base for estimating ongoing costs. A proxy for this is the number of live cases being investigated by LEAs. Engagement with LEAs informs the assumption of 250 for the lowest volume of cases, with a central and high estimate of 500 and 1000 cases respectively. There is the risk of under-estimation of the number of cryptoassets or cryptoasset accounts that can be potentially frozen or seized.

### Costs to LEAs

49. Engagement with LEAs suggests two strands of investigations in a cryptoasset crime case that ultimately lead to seizures, standard investigations and financial investigations. Each case involves different amounts of investigators and requires different lengths of time dependent on its complexity. The sensitivity of the operational data means it is not possible to gain access to these data or provide a sense of the complexity of cases types. Assumptions had to be made about the potential cost of these cases. A case study provided by the LEA is relied upon which suggests that for a 2017 case: 1) the initial investigation included as many as four investigators plus management, working periodically on this for three years, and 2) the financial investigation included at most three staff members working on this for between four to eight weeks (average eight hours per day).
50. The relevant cost is the financial cost of the investigation, as it is applicable for the proposed legislative changes. The case study is used as a central scenario based on feedback from one LEA. It assumes three members of staff working on a case for six weeks (midpoint of 4 and 8 weeks). For the low and high scenario, a lack of data leads to an assumption to half and double the central estimate. The hourly cost for a constable of £33.57 has been used in the low scenario and the hourly cost for a sergeant of £42.64 has been used in the high scenario. The average of the two costs, £38.11, has been used in the central scenario. The Home Office's staff cost model was used for the wage rate of these ranks.

**Table 9, LEA ongoing costs, (vol, hrs, £, £ million and £ million PV) per year and 10 years, 2022.**

Scenario	No. of cases	No. of staff	Hours per staff	Hourly cost (£)	Per year (£m)	Total cost (£m 10 yrs)
Low	250	1	24	33.57	0.2	1.7
Central	500	3	48	38.11	2.7	23.6
High	1,000	6	96	42.64	24.6	211.4

Source: HO Staff Cost Model (0.7), and engagements with LEAs, 2021.

51. This gives an estimated cost which lies in a range of **£1.7 to £211.4 million (PV)**, with a central estimate of **£23.6 million (PV)** over 10 years.
52. The amendments to both civil and criminal powers will create additional ongoing costs to LEAs that will maintain and store cryptoassets that are in their possession. However, the uncertainties around the change in scale of required storage and how it differs from current arrangements with providers means it was not possible to estimate a potential increase in cost.

### Costs to HM Courts and Tribunal Service (HMCTS)

53. There will be costs to the courts (in England & Wales) to hear applications relating to the recovery of cryptoassets and obtaining expert valuation (if necessary). This includes dealing with issues of joint and associated property ownership. Most cases will be heard in the magistrates court, with an option of referral to the High Court (only a small number of cases are expected here).
54. Consultation with MoJ suggests there would be two hearings per case, and that the initial and further (uncontested) hearings may take between 15 to 30 minutes depending on the complexity of the case. If a hearing is contested, then it would take up to 60 minutes. From this information, it is

assumed that cases could take between 30 to 120 minutes in total, with 60 minutes used as a central estimate. The consultation also suggested that each hour of hearings costs the courts £490.

**Table 10, Ongoing cost to HMCTS, (vol, hrs, £ and £ million PV), 2022.**

Scenario	No. of cases	Average hearing time (hrs)	Cost per hr (£)	Cost per year (£m)	Total cost (£m) PV 10 yrs
<b>Low</b>	250	0.5	490	<b>0.1</b>	<b>0.5</b>
<b>Central</b>	500	1.0	490	<b>0.2</b>	<b>2.1</b>
<b>High</b>	1,000	2.0	490	<b>1.0</b>	<b>8.4</b>

Source: Consultation with MoJ

55. This gives an estimated cost which lies in a range of **£0.5 to £8.4 million (PV)**, with a central estimate of **£2.1 million (PV)** over 10 years.

### **Costs to the regulated sector (cryptoasset exchange)**

56. Regulated cryptoasset exchanges are obliged to respond to a court order, but are not obliged to respond to LEAs for information when investigating a case. Some exchanges already engage with LEAs, therefore compliance costs to cryptoasset exchanges are expected. A large cryptoasset exchange provided some data on the number of hours spent on responding to LEAs and the wage rate of caseworkers dealing with these requests. This suggested a range of <1 hour to 4 hours. The hourly cost of a caseworker was £21.26 in the low estimate, £24.41 in the central estimate and £27.56 in the high estimate. The large cryptoasset exchange estimate of 4 hours is used as the central scenario, halving it for the low estimate (2hrs) and doubling it for the high estimate (8 hrs). These are applied to the number of cases to estimate costs to the regulated sector.

**Table 11, Cryptoasset exchange costs (volume, hrs, £, £ million PV) over 10 years, 2022.**

Scenario	Number of Cases	Hours worked on a case	Hourly wage (£)	Cost per year (£m)	Total cost (£m) 10 yrs
<b>Low</b>	250	2	21.26	<b>0.0</b>	<b>0.1</b>
<b>Central</b>	500	4	24.41	<b>0.0</b>	<b>0.4</b>
<b>High</b>	1,000	8	27.56	<b>0.2</b>	<b>1.9</b>

Source: Engagement with a large cryptoasset exchange, HMRC yearly average and spot rates, Salary.com, Home Office estimates, 2022.

57. This gives an estimated cost which lies in a range of **£0.1 to £1.9 million (PV)**, with a central estimate of **£0.4 million (PV)** over 10 years.
58. Although these costs are estimated, cryptoasset exchanges are not obliged to respond to LEA requests for information, therefore, the cost is not included in the BNPV and EANDCB estimated.

### **Total costs**

59. Total costs for this measure lie in a range of **£3.3 million to £238.9 million**, with a central estimate of **£32.9 million (PV over 10 years)**.

### **BENEFITS**

#### **Set-up benefits**

60. There are no monetised set-up benefits for the proposed changes to the legislation.

## Ongoing benefits

61. The main benefit of the proposed changes is the ability to recover illicit cryptoassets in more circumstances than at present, thus leading to an increase in illicit cryptoasset seizures. In addition, the changes will support a more effective public-private partnership to tackle economic crime.
62. The legislation will create a third route for LEAs to recover criminals cryptoassets. They can already be recovered in the Crown Court using criminal powers and in the High Court by five specific agencies using civil powers. However, the introduction of additional powers will allow the LEAs more options for seizure and will theoretically allow cryptoassets to be seized in the same way as cash and other listed assets.
63. The LEAs are already seeing steady increases in cryptoasset seizure cases which usually have high value seizures in the millions (using existing criminal powers). These funds are paid into a consolidated fund. For sensitivity reasons, it is not possible to provide specific numbers and values on these seizures and funds, although some figures are already published in the public domain. For example, the Metropolitan Police seized a record £180 million of crypto currency in London in 2021.<sup>18</sup>
64. Due to the considerable uncertainty of fast paced evolution of the cryptoasset technology, and the sensitivity of the information, it is not possible to project the scale of the increase in cryptoasset seizures. A steady increase in seizures and recoveries will upskill LEAs, that will over time, become more familiar with to the related court processes and procedures. This will enable information sharing, allowing others to learn, increasing operational confidence in cryptoasset investigations as time passes.
65. The benefits of the proposed legislative measures are estimated using the number of cases from the data used to estimate the costs. The sensitive operational data of cryptoassets or cryptoasset accounts under investigation means additional assumptions on the range of values per case is required. Engagement with LEA indicate they focus on cases with at least of £50,000 due to the amount of effort required to investigate and take actions. The £50,000 is assumed to be the lowest value of a case, with a central and high estimate of £100,000 and £200,000 respectively.

**Table 11, Asset recovery by LEA/public sector, volume, £, £ million (PV) over 10 years, 2022.**

Scenario	Number of Cases	Average Case Value (£)	Total seized per year (£m)	Total seized (£m PV) 10 yrs
<b>Low</b>	250	50,000	<b>12.5</b>	<b>107.6</b>
<b>Central</b>	500	100,000	<b>50.0</b>	<b>430.4</b>
<b>High</b>	1,000	200,000	<b>200.0</b>	<b>1,721.5</b>

Source: Home Office estimates, 2022.

66. This gives an estimated benefit which lies in the range of **£107.6 to £1,721.5 million** with a central estimate of **£430.4 million** (PV over 10 years).

## Non-monetised benefits

67. The monetised benefit of asset recovery only captures the potential value of illicit funds in cryptoassets that could be seized by law enforcement. There are further benefits beyond just the monetary value, such as the potential disruption and disincentivisation of criminal activities caused by illicit funds being seized. Furthermore, there may be a benefit from the public's perception that the police and others have the ability to seize illicit funds.
68. While cryptoasset exchanges are not legally obliged to deal with LEA requests and assist LEAs for information, it is clear that cryptoasset exchanges, may receive a 'credibility factor' from dealing with LEAs in this way. This is a positive benefit, but it was not possible to monetise this.

<sup>18</sup> [Met Police seize record £180 million of cryptocurrency in London - BBC News](#)

## Total benefits

69. Total benefits from reforming cryptoasset seizures are estimated to lie in a range of **£107.6 to £1,721.5 million** with a central estimate of **£430.4 million** (PV over 10 years).

## NPSV, BNPV, EANDCB

70. Total costs are estimated in a range **£3.3 to £238.9 million**, with a central estimate of **£32.9 million (PV)** over 10 years. Total benefits are estimated in a range of **£107.6 to £1,721.5 million** with a central estimate of **£430.4 million (PV)** over 10 years.
71. The Net Present Social Value (NPSV) is determined by total benefits minus total costs. The NPSV for this measure is estimated to lie in a range of **£104.2 to £1,482.6 million**, with a central estimate of **£397.4 million (PV)** over 10 years.
72. The Business Net Present Value (BNPV) is estimated to lie in a range of **-£0.0 to -£0.0 million**, with a central estimate of **-£0.0 million (PV)** over 10 years. The net direct cost to business (EANDCB<sup>19</sup>) is estimated to lie in a range of **£0.0 to £0.0 million**, with a central estimate of **£0.0 million (PV)** over 10 years.

**Table 12, Summary costs, benefits, NPSV, BNPV and EANDCB (£ million PV) 10 years, 2022.**

Summary	Low	Central	High
<b>Costs</b>			
Total Set up Costs	1.0	6.8	17.1
Total Ongoing Costs	2.4	26.1	221.8
<b>Total Costs</b>	<b>3.3</b>	<b>32.9</b>	<b>238.9</b>
<b>Benefits</b>			
Ongoing Benefits	107.6	430.4	1,721.5
<b>Total Benefits</b>	<b>107.6</b>	<b>430.4</b>	<b>1,721.5</b>
<b>NPSV</b>	<b>104.3</b>	<b>397.5</b>	<b>1,482.7</b>
<b>BNPV</b>	<b>-0.0</b>	<b>-0.0</b>	<b>-0.0</b>
<b>EANDCB</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Source: Home Office estimates

Note: BNPV has a negative sign as there are familiarisation costs to business estimated to be £26, £159, and £581 in the L, C, and H scenario.

## Value for money (VfM)

73. For a policy to be considered VfM, it must achieve the strategic and policy objectives. **Option 2** represents good value for money as it achieves both the strategic and policy objectives of this impact assessment. The costs of this option fall onto LEA's, the courts and cryptoasset exchanges operating in the UK, with most of the costs being incurred by LEA's. The benefits fall entirely on the public sector in the form of asset recovery receipts. There are no monetised benefits to the private sector cryptoasset exchanges. Overall, the benefits significantly outweigh the costs, creating a Net Present Social Value of **£397.5 million** in the central estimate.

<sup>19</sup> The net direct cost to business is defined as the Equivalent Annual Net Direct Cost to Business (EANDCB).

## Impact on small and micro-businesses

74. There are currently 33 cryptoasset exchanges registered with the FCA, as of March 2022.<sup>20</sup> Data on the split of large or small, to small to medium-sized enterprise (SME) cryptoasset exchange is not available. It is not expected that this legislation would disproportionately impact small and micro-businesses. Although businesses are not obliged to respond to LEAs unless there is a court order, it is possible that the resource and time costs required to respond to LEA request may be disproportionately high for SMEs, who are likely to have significantly fewer resources than larger firms. However, it is expected that small and micro-businesses would choose to not respond to requests if the impact is greater than the benefits, and as such, it is not expected that SMEs will be disproportionately impacted.

## F. Proportionality.

75. As this is a Final stage IA, the aim has been to monetise impacts as far as possible, making use of findings from the Home Office targeted consultation with the regulated sector and LEAs. The impact estimates associated with the proposed changes are indicative only.
76. The IA would have benefited from the monetisation of all the identified benefits and costs, a proportional approach was taken to monetise benefits and costs that were considered to have material impacts, with those expected to have minimal impacts unmonetised. In most cases of unmonetised benefits or costs, there was either a lack of data or very considerable challenges.

## G. Risks

77. Cryptoasset technology is a new emerging market and is evolving rapidly. The Home Office only has limited data on the amount of and the impact of illicit behaviour in the crypto ecosystem. The dataset is smaller than that for other economic crimes. It is harder to know exactly the scale of cryptoasset crime with so little data to date.
78. Volatility and anonymity of the crypto-ecosystem adds to the uncertainty, as do unregulated or un-co-operative cryptoasset service providers. It is not known precisely how much money is being laundered or how much illicit finance is involved with cryptoassets because of the anonymity and lack of consistent regulation internationally.
79. Tackling jurisdictional issues and extra-territoriality presents difficulties. There is significant uncertainty in the evidence base as only data from the UK or a small amount from other states is available. This is a cross-jurisdictional issue and it is not possible to know the full cost/benefits due to lack of access to all the data.
80. To estimate cryptoasset seizures, partial data has been used, which has been redacted to safeguard the security of these assets. The value of cryptoassets under investigation by the Metropolitan Police, for example, was not included in the data shared by LEA contacts. Additionally, the price of cryptoassets is volatile, so the central estimate could be lower or higher depending on future market prices. The IA has accounted for this uncertainty by providing a range for the number of cases and value of cryptoassets per case, but there remains a risk of overestimating or underestimating the benefits. The LEA contacts also added that the provided figures cannot be published for safeguarding reasons.
81. There is a risk involved with estimating the costs of cryptoasset cases to the LEAs, due to a lack of data. The costs involved are estimated using only one case study of a previous case, provided by LEAs, as this was the only available data point. Similarly, assumptions on the value of a cryptoasset

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<sup>20</sup> [Registered Crypto-asset Firms \(fca.org.uk\)](https://www.fca.org.uk) this number fluctuates regularly and is likely to change distinctively on 31 March when the temporary registration of many cryptoasset exchanges expires.

case were estimated using data from a single seizure by Metropolitan police where the information is available. This also poses an analytical risk, however due to the lack of available data surrounding cryptoassets this was used.

## **H. Wider impacts**

82. There are no anticipated wider impacts of these proposals.

## **I. Trade Impact**

83. There are no anticipated trade or investment implications of the measure.

## **J. Monitoring and evaluation (PIR if necessary)**

84. The progress of the Government's legislative amendments will be evaluated by monitoring how the cryptoasset forfeiture framework develops, including:

- Monitoring if the changes in legislation have aided LEAs in their ability to forfeit and seize cryptoassets by looking at if there is an increased number of cases where they have succeeded in retrieving/freezing the assets.
- Monitoring, through feedback from enforcement agencies on how effective the new powers have been in practice.
- Monitoring if the powers provided in the legislation have been up taken by LEAs and have been accepted or acknowledged by the courts.
- Whether the courts have refused any of the freezing, seizure or confiscation orders. Also the amount of warrants granted will be monitored.
- Whether there have been any changes in behaviour by those conducting the illicit conduct when the legislation has been brought in (are they finding/have they found any loopholes).
- Monitoring the cryptoasset system to make sure the legislation remains in date and relevant.
- Looking at definitions – keeping track of developments and amend with secondary legislation to keep up with the evolving crypto ecosystem.
- There will be a post-implementation review (PIR) of the entire Bill measures scheduled for October 2026.

## K. Annexes

### Impact Assessment Checklist

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p><b>Statutory Equalities Duties</b></p> <p>The new power seeks to improve law enforcements ability to seize cryptoassets when considered to be or connected to the proceeds of crime by facilitating faster and more efficient processes for the seizure of cryptoassets.</p> <p>These powers would also support the Government’s efforts against the growing threat from ransomware criminals who frequently utilise cryptoassets. The changes proposed would be mirrored in counter-terrorism legislation, enabling law enforcement agencies to mitigate the risk that cryptoassets become increasingly used for terrorist purposes.</p> <p>There is no evidence to suggest the new powers in either Part 2 or Part 5 of POCA 2002 relating to cryptoassets will affect those with protected characteristics under the Equality Act 2010. This proposal does not remove or increase disadvantages directly or indirectly to any of those protected under the nine protected characteristics.</p> <p><b>The SRO has agreed these summary findings of the Equality Impact Assessment.</b></p>	<p><b>Yes</b></p>

Any test not applied can be deleted except **the Equality Statement**, where the policy lead must provide a paragraph of summary information on this.

The Home Office requires the **Specific Impact Test on the Equality Statement** to have a summary paragraph, stating the main points. **You cannot delete this and it MUST be completed.**

**Economic Impact Tests**

<p><b>Small and Micro-business Assessment (SaMBA)</b> The SaMBA is a Better Regulation requirement intended to ensure that all new regulatory proposals are designed and implemented so as to mitigate disproportionate burdens. The SaMBA must be applied to all domestic measures that regulate business and civil society organisations unless they qualify for the fast track. <a href="#">[Better Regulation Framework Manual]</a> or [Check with the Home Office Better Regulation Unit]</p> <p>Cryptoasset exchanges will expected to respond to court orders if they occur due to these measures, therefore there may be an impact to business if this situation arises. However, small and micro-businesses are not specifically targeted by these measures.</p>	<p><b>Yes</b></p>
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## **Annex A: Responses to the targeted consultation paper**

A targeted consultation took place over the period, 1 November and 30 November 2021 with 43 organisations, see Table A.1. There were 11 questions which are presented in Table A.2. There were 20 responses (46.5% response rate) while 23 organisations chose not to respond (53.5%). The summary findings include:

### **Definitions:**

Around half of respondents fully agreed that the definitions we provided were sufficiently broad for the purposes of the legislative proposals. Many however suggested that the definitions in general should be as broad as possible, with Q16 specifically many pointing out should ensure the inclusion of NFTs or be able to include other digital assets that might emerge in the future. We made it clear to those who didn't feel the definitions were broad enough that we were to add in secondary legislation in order to tackle this and make it easier to future proof.

Comments included: A "firm or sole practitioner" excludes peer-to-peer exchanges as well as everyday people; it could refer to a "person" too. As above, it may be worth creating a power to amend this definition by regulation to better future-proof the definition. The definition of a "cryptoasset exchange provider" should be sufficiently broad to cover other activities and service which these institutions provide - many of these firms offer services such as staking, purchase of goods using the exchange of synthetic cryptoassets to fiat.

### **Technological and other barriers to making effective legislation:**

For those who answered, they expressed concern with accessing private keys from an uncooperative individual. Privacy coins were also considered an issue and that guidance should be provided in order to effectively deal with these. It was also brought to attention by a variety of organisations, the need for the legislation to remain flexible, to protect innovation in the sector and for law enforcement to be able to use it as effectively as possible.

### **Jurisdiction:**

Those who responded to the question nearly all agreed that if the UK could find a way to make this power cross-jurisdictional then that would be beneficial.

Comments included: As necessary to achieve the objective of recovery, this should be extraterritorial and any nexus to the UK (including Crown dependency jurisdictions), UK legal entities and UK persons should give UK law enforcement and authorities the ability to use these powers.

### **Victim Compensation:**

All of those who answered this question agreed that victims should be compensated.

Comments included: Any new powers to recover cryptoassets should make provision for the payment of compensation to identifiable victims, consistent with the current approach to the recovery of other forms of assets.

### **Investigatory Challenges and powers to support the recovery of cryptoassets:**

Those who answered this question all agreed that the new powers should be accompanied by supplementary investigatory powers. Some suggested that these powers should replicate the powers provided in tackling criminal assets in other forms. The problems relating to the conversion to fiat currency and the volatility of the cryptoasset market were also highlighted by many as a challenge when recovering illicit cryptoassets.

Comments included: The price movement of the asset needs consideration, a method of calculation may be necessary where an asset price has reduced, or increased.

**Counter-terrorism legislation:**

All of the respondents agreed that the legislation should be mirrored in the Anti-Terrorism, Crime and Security Act 2001.

**Any other business (AOB):**

There were a wide variety of suggestions in regards to any other considerations we should make for the legislation.

A common theme in responses was the sharing of data, the improvement of it and how it was going to be done in order to benefit law enforcement and those in the cryptoasset ecosystem.

Comments included: Perhaps data sharing does not go far enough? The point being full sharing of information so that the extent of organised criminal groups and a better chance of asset recovery is better delivered across firms. making provision for full sharing would be beneficial.

## Annex A, continued.

**Table A.1 Full list of respondents to targeted consultation paper in relation to Cryptoassets, 2021.**

<b>Respondents (20)</b>	<b>Response type</b>
Association of foreign banks	Part
Bank of England	Part
CPS	Part
Deloitte	Part
Digivault	Part
Electronic Money Association	Part
Gambling Commission	Part
Gemini	Full
HMRC	N/A
Kracken	Part
NIE	N/A
Property Mark	Full
Santander	Full
Scottish Government	Part
Serious Fraud Office (SFO)	Full
The Payments Association	Part
Royal Institution of Chartered Surveyors	Part
RUSI	Full
UK Finance	Full
Ziglu	Part

### **Non-respondents (23)**

Association of Accounting Technicians  
Association of Tax Technicians  
Association of British Insurers  
Bar Council  
Bar Standards Board  
Betting and Gaming Council  
Betaway (gaming)  
Chartered Institute of Taxation  
Chartered Accountants of Ireland  
Chartered Institute of Management Accountants  
Cifas  
CILEx Regulation  
Federation of Small Business  
Future of Financial Intelligence Sharing (FFIS) Research Programme  
Institute for Chartered Accountants  
Institute for Chartered Accountants of Scotland  
Institute of Financial Accountants  
Law Society  
Law Society of Northern Ireland

**Table A.2 Full list of questions in targeted consultation paper in relation to Cryptoassets, 2021.**

<p><b>Definitions</b></p>	<p><b>Q16. Cryptoassets are defined as “cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically” in Schedule 9 to POCA. Is this definition sufficiently broad for the purposes of these proposals?</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p> <p><b>Q17. Schedule 9 to POCA defines cryptoasset exchange provider as “firm or sole practitioner who by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved:</b></p> <ul style="list-style-type: none"> <li>• exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets,</li> <li>• exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another, or</li> <li>• operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets;</li> </ul> <p><b>Is this definition sufficiently broad for the purposes of these proposals?</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p> <p><b>Q18. Schedule 9 to POCA defines “custodian wallet provider” (for other purposes) as a firm or sole practitioner who by way of business provides services to safeguard, or to safeguard and administer:</b></p> <ul style="list-style-type: none"> <li>• cryptoassets on behalf of its customers, or</li> <li>• private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets.</li> </ul> <p><b>Is this definition sufficiently broad for the purposes of these proposals?</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p>
<p><b>Technological and other barriers to making effective legislation</b></p>	<p><b>Q19. What technological barriers (or security features) should be considered when developing new civil and investigatory powers to seize, detain and forfeit cryptoassets?</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p> <p><b>Q20. What else should we take into account when developing these powers to investigate, seize and forfeit cryptoassets?</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p>
<p><b>Jurisdiction</b></p>	<p><b>Q21. In what circumstances would it be appropriate for any of these new powers to be capable of being used in relation to persons, or cryptoassets, located outside the UK?</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p>
<p><b>Victim Compensation</b></p>	<p><b>Q22. Should new powers to recover cryptoassets make provision for the court to order compensation to be paid to any identifiable victims?</b></p> <p>Some responses consisted of a simple 'Yes' while others were lengthy explanations of position of the responding organisation.</p>

<p><b>Investigatory Challenges and powers to support the recovery of cryptoassets</b></p>	<p><b>Q23. Should new powers to recover cryptoassets be accompanied by supplementary investigatory powers?</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p> <p><b>Q24. What difficulties have you encountered securing cryptoassets to prevent their dissipation, or preserve their value (prior to the making of a confiscation order)? Would our legislative proposals address these challenges? If not, why not?</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p>
<p><b>Counter-terrorism legislation</b></p>	<p><b>Q25. Is it necessary or desirable to mirror changes we propose to make to proceeds of crime legislation, in particular the civil recovery powers under Part 5 of POCA, in the Anti-Terrorism, Crime and Security Act 2001?</b></p> <p>Some responses consisted of a simple 'Yes' while others were lengthy explanations of position of the responding organisation.</p>
<p><b>AOB</b></p>	<p><b>Q26. We welcome your views if there are other proposals that you consider would support the recovery of criminal cryptoassets, not listed above.</b></p> <p>In almost all questions the responding organisation answered, it explained its position.</p>