



Home Office

DRAFT CODES OF PRACTICE ISSUED UNDER THE PROCEEDS OF CRIME ACT 2002

Government consultation

This consultation begins on 23 November 2020 and ends on 22 January 2021

About this consultation

The Proceeds of Crime Act 2002 (POCA) contains a comprehensive legal framework for investigating, and the recovery of, the proceeds of crime. The Criminal Finances Act 2017 (CFA) added to the asset recovery and investigation powers in POCA and was commenced in England and Wales and Scotland in April 2017. The operation of certain powers within POCA, including those inserted by the CFA, are subject to Codes of Practice issued by the Home Secretary, the Attorney General and the Advocate General for Northern Ireland, the Department of Justice and Scottish Ministers.

The existing guidance needs to be updated in advance of the full commencement of the CFA amendments to POCA in Northern Ireland. Please note that the CFA's amendments will not be commenced in Northern Ireland until the relevant secondary legislation is passed in Parliament and by the Northern Ireland Assembly.

POCA provides that when a Code of Practice is revised, the relevant authorities must prepare and publish a draft, they must consider any representations made and modify the Codes as appropriate, and they must lay the Codes before Parliament or the Northern Ireland Assembly (as appropriate) for approval.

The Codes

This consultation seeks views on four Codes, all of which are issued by the Home Secretary. The Department of Justice, Northern Ireland, and the Attorney General have published consultations in tandem with this one, which seek views on five further Codes.

The revised Investigations Code of Practice (Annex A) contains provisions about the exercise of investigation powers. It is issued under section 377 of POCA and makes provision for investigators in England, Wales and Northern Ireland.

The revised Search, Seizure and Detention of Property Codes of Practice (Annex B) contains provisions about the exercise of powers to search and seize and detain property in order for it to be sold to meet the value of a confiscation order in certain circumstances. It is issued under section 195S of POCA and makes provision in relation to certain functions in Northern Ireland. While it only applies to Northern Ireland, this Code is issued by the Home Secretary because it relates to reserved bodies and their functions in Northern Ireland.

The revised Recovery of Cash: Search Powers Codes of Practice (Annex C) contains provisions about the operation of the powers to search for cash where there are reasonable grounds to suspect that it is recoverable property. It is issued under section 292 of POCA and makes provision for investigators in England, Wales and Northern Ireland.

The revised Recovery of Listed Assets: Search Powers Codes of Practice (Annex D) contains provisions about the operation of the powers to search for listed assets where there are reasonable grounds to suspect that the asset or assets are recoverable property.

It is issued under section 303G of POCA and makes provision for investigators in England, Wales and Northern Ireland.

How to Respond

The consultation is open to other Government Departments, interested organisations using these powers and the public via the Home Office website. The two other consultations issued by the Attorney General and the Advocate General for Northern Ireland and the Department of Justice are available on their websites.

The consultation is in respect of the draft revised Codes governing the exercise of the powers provided by the CFA in Northern Ireland. The consultation does not seek views on the powers themselves or their commencement in Northern Ireland. Respondents should be aware of this distinction in making specific comments and suggestions. The Codes are intended to be self-explanatory and so we would welcome views on any passages that are confusing or lacking in clarity. In particular, we would welcome answers to the following questions:

Question 1

Do you have any comments about the proposed amendments to the Codes?

Question 2

Will the proposed amendments to the Codes have an adverse impact on your organisation?

The closing date for comments is 22 January 2020.

There are a variety of ways in which you can provide us with your views. You can email or write to us at the following addresses:

CFAconsultation@homeoffice.gov.uk

POCA Codes of Practice, Serious & Organised Crime Group, 6th Floor, Peel Building
Home Office
2 Marsham Street
London
SW1P 4DF

If we believe that your response relates to the Codes of Practice issued by the Attorney General and Advocate General for Northern Ireland or the Department of Justice, we will share your response with the relevant department.

What will happen next?

We will consider the responses to this consultation and modify the draft Codes if appropriate. We will then lay the relevant Codes in Parliament for debate, under cover of statutory instruments. If Parliament approves the Codes and statutory instruments, the

Codes will come into force. Their coming into force will be synchronised with the commencement of the powers to which they relate in Northern Ireland.

Alternative Formats

You should also contact us as specified above should you require a copy of this consultation paper in any other format, e.g. Braille, large font, or audio.

Responses: confidentiality and disclaimer

The information you send us may be passed to colleagues within the Home Office, the Government, the Devolved Administrations, the Appointed Person and related agencies.

Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which sets out, amongst other things, the obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

An automatic confidentiality disclaimer generated by your IT system will not, by itself, be regarded as binding on the Department.

Please ensure that your response is marked clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

The Department will process your personal data in accordance with the data protection legislation in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual contributions will not be acknowledged unless specially requested.

Representative groups are asked to give a summary of the people and organisations they represent when they respond.



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Any enquiries regarding this publication should be sent to us at CFAconsultation@homeoffice.gov.uk