



Attorney
General's
Office

CODE OF PRACTICE ISSUED UNDER THE PROCEEDS OF CRIME ACT 2002

**Amendments to reflect the commencement of the
Economic Crime (Transparency and Enforcement) Act
2022**

Consultation Document

June 2022



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Introduction

1. The Proceeds of Crime Act 2002 (POCA) contains a comprehensive legal framework for investigating, and the recovery of, the proceeds of crime. The Economic Crime (Transparency and Enforcement) Act (EC(TE) Act) added to the asset recovery and investigation powers in POCA and was commenced in England and Wales, Scotland and Northern Ireland in May 2022. The operation of certain powers within POCA, including those inserted by the EC(TE) Act, 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.
2. The existing guidance needs to be updated to reflect changes made to the Unexplained Wealth Order (UWO) regime following the commencement of Part 2 of the EC(TE) Act.
3. 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 for approval.

The Code

4. This consultation seeks views on one Code, issued by the Attorney General and Advocate General for Northern Ireland under section 377A of POCA, which makes provisions for the investigative powers of prosecutors in England, Wales and Northern Ireland. The Home Secretary has published a consultation in tandem with this one, which provides guidance to investigators in England, Wales and Northern Ireland.
5. Where an officer subject to the Codes fails to comply with any provision of any Code they would not, by reason of that failure alone, be liable to any criminal or civil proceedings, but the Code is admissible as evidence in such proceedings.

How to respond



6. The consultation is open to other government departments, interested organisations using these powers and the public via the Attorney General Office's website. The other consultation issued by the Home Secretary is available on their website.

7. The consultation is in respect of the draft revised Code governing the exercise of the powers provided by the EC(TE)A. The consultation does not seek views on the powers themselves. 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 in paragraphs 159 to 195 to the Codes?

 - **Question 2:** Will the proposed amendments to the Codes have an adverse impact on your organisation?

8. **The closing date for comments is 21 September 2022.**

9. 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:
 - **You can email us at:** POCACOPconsultation@attorneygeneral.gov.uk
 - **Or you can write to us at:**

POCA Code of Practice consultation
Attorney General's Office
102 Petty France
London
SW1H 9EA

10. If we believe that your response relates to the Code of Practice issued by the Home Secretary we will share your response with them.



What will happen next?

11. We will consider the responses to this consultation and modify the draft Code if appropriate. Following the introduction of the upcoming Economic Crime and Corporate Transparency Bill (ECCT), we will launch another consultation on further changes to the same Code in relation to new powers to support the recovery of cryptoassets. We then intend to lay a statutory instrument to issue an updated Code of Practice under the Proceeds of Crime Act 2002 (POCA) to reflect both sets of changes once the ECCT Bill is in force. If Parliament approves the Codes and statutory instruments, the Codes will come into force.

Alternative formats

12. 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

13. 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.
14. 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)).
15. 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.



16. An automatic confidentiality disclaimer generated by your IT system will not, by itself, be regarded as binding on the Department.
17. 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.
18. 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.
19. Individual contributions will not be acknowledged unless specially requested.
20. Representative groups are asked to give a summary of the people and organisations they represent when they respond.