



Attorney
General's
Office

Draft Code of Practice issued under Section 377A of the Proceeds of Crime Act 2002

**Amendments to the Code to reflect proposed changes in
the Economic Crime and Corporate Transparency Bill**

Consultation Document

28 March 2023



About this consultation

To: This consultation is open to the public and targeted at individuals, businesses and organisations in England, Wales and Northern Ireland.

Duration: From 28 March 2023 to 20 June 2023

Responses and enquiries (including requests for the paper in an alternative format) to: POCA Code of Practice consultation
Attorney General's Office
102 Petty France
London
SW1H 9EA

POCACOPconsultation@attorneygeneral.gov.uk

Please respond by 20 June 2023



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Introduction

1. The Proceeds of Crime Act 2002 (POCA) contains a comprehensive legal framework for the investigation and recovery of the proceeds of crime.
2. The operation of certain powers within POCA are subject to Codes of Practice issued by the Home Secretary, the Attorney General and the Advocate General for Ireland, the Department of Justice Northern Ireland, and Scottish Ministers.
3. The Attorney General and Advocate General for Northern Ireland issues a single Code of Practice under section 377A of POCA, which makes provisions for the investigative powers of prosecutors in England, Wales and Northern Ireland.
4. This Code of Practice needs to be updated to reflect possible changes made to POCA by the Economic Crime and Corporate Transparency Bill (ECCT Bill). Subject to its commencement, the ECCT Bill will make amendments to the existing criminal powers under Parts 2 to 4 of POCA and introduce new civil forfeiture powers under Part 5 of POCA to increase the recovery of cryptoassets.
5. 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 Code as appropriate, and they must lay a draft of the Code before Parliament for approval.
6. This consultation seeks views on amendments to the Code issued under section 377A of POCA. While these amendments principally reflect the possible changes made to POCA by the ECCT Bill, the draft revised Code also includes some minor drafting amendments to improve clarity. The Home Secretary has published a consultation in tandem with this one, which seeks views on five other draft Codes of Practice that need to be updated to reflect the ECCT Bill.
7. To note, an updated draft of the Code of Practice issued under section 377A of POCA was most recently consulted on in June 2022 to reflect changes to the Unexplained Wealth Order (UWO) regime made by the Economic Crime (Transparency and Enforcement) Act (EC(TE) Act). There has not yet been an opportunity to lay an updated Code before Parliament for approval. Subject to commencement of the ECCT Bill, it is our intention for a single revised version of the Code to be laid in Parliament, which reflects both changes to the UWO regime and powers to increase the recovery of cryptoassets.



The proposals

8. 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.
9. The consultation is in respect of the draft revised Code governing the exercise of the powers that will be provided by the ECCT Bill.¹ The consultation does not seek views on the powers themselves. Respondents should be aware of this distinction in making specific comments and suggestions. The Code is 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 Code?
 - **Question 2:** Will the proposed amendments to the Code have an adverse impact on your organisation?
 - **Questions 3:** Do you have any other comments relating to the Code?
10. **Thank you for participating in this consultation.**

¹ This is subject to powers being inserted into POCA by the ECCT Bill being passed by Parliament and receiving Royal Assent.



About you

Please use this section to tell us about yourself.

Full name	
Job title or capacity in which you are responding to this consultation exercise (for example, member of the public)	
Date	
Company name/organisation (if applicable)	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	



If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.



Contact details and how to respond

11. 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:
12. There are a variety of ways in which you can provide us with your views:
 - **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
13. If we believe that your response relates to Codes of Practice issued by the Home Office we will share your response with them, or other relevant Government departments

Complaints or comments

14. If you have any complaints or comments about the consultation process, you should contact the Home Office at the above address.

Extra copies

15. Further paper copies of this consultation and alternative format versions of this publication can be requested from:

POCACOPconsultation@attorneygeneral.gov.uk.

Representative groups

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

Confidentiality

17. 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), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004).
18. 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 deals with, amongst other things,



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, of itself, be regarded as binding on the Home Office.

19. The Attorney General's Office will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.



Consultation principles

22. The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles:

<https://www.gov.uk/government/publications/consultation-principles-guidance>