

Lincolnshire Police

Policy Document



Seizure of cash and civil recovery of proceeds of unlawful conduct under PoCA policy PD 207

Policy document information

Reference number: PD 207

Policy sponsor: ACC

Policy owner: Head of Crime

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Version history

Version	Date	Reason for issue
5	January 2021	Biennial review
6	January 2023	Biennial review
7	January 2025	Biennial review

Code of Ethics

All staff involved in carrying out functions under this policy and associated procedures and appendices will do so in accordance with the principles of the Code of Ethics. The aim of the Code of Ethics is to support each member of the policing profession to deliver the highest professional standards in their service to the public.

Legislative compliance

This document has been drafted to comply with the principles of the Human Rights Act. Proportionality has been identified as the key to Human Rights compliance, this means striking a fair balance between the rights of the staff and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Equality and Diversity issues have also been considered to ensure compliance with the Equality Act 2010 and meet our legal obligation in relation to the equality duty. In addition, Data Protection, Freedom of Information and Health and Safety Issues have been considered. Adherence to this policy or procedure will therefore ensure compliance with all relevant legislation and internal policies.

Other legislation/law which this policy has been drafted to comply with:

- [Human Rights Act 1998 \(in particular A.14 – Prohibition of discrimination\)](#)
- [Equality Act 2010](#)
- [Crime and Disorder Act 1998](#)
- [H&S legislation](#)

- [Data Protection Act 2018](#)
- [Freedom Of Information Act 2000](#)
- [Criminal Procedure and Investigations Act 1996](#)
- [Police Reform Act 2002](#)
- [Police and Criminal Evidence Act 1984.](#)
- [NPIA Practical Advice on the Management and Use of Proceeds of Crime Legislation 2008](#)

Security classification

Policy to be published on Intranet: Yes

Policy to be published on Force Website: Yes

Authorised Professional Practice (APP)

This policy has been checked against APP. Lincolnshire Police has adopted the APP provisions, with supplementary information contained herein, which reflects local practice and the needs of the communities served by Lincolnshire Police.

Those provisions are shown in the links below and can be accessed via the home page of the APP website:

[Cash Seizure](#) & [Financial Investigation](#)

1. Policy aims (Purpose)

- 1.1. The aim of this document is to provide a structured policy for persons authorised to seize cash under the Proceeds of Crime Act 2002 (PoCA) and to effectively disrupt the criminal use of cash.
- 1.2. Furthermore, it will provide a platform for the seizure of suspected criminal cash and maximise operational efficiency in relation to the seizure, retention and ultimately the recovery of cash that is derived from criminal conduct or intended for use in criminal conduct.

- 1.3. This policy provides the structure for civil action that can be taken to remove suspected criminal cash out of circulation, through the lawful seizure and application before court.

2. Policy statement (Key information)

2.1. Background

- 2.1.1. The Proceeds of Crime Act 2002 (PoCA) creates opportunities to remove cash (and other assets) from criminals.
- 2.1.2. PoCA contains the 'money laundering' offences (Sections 327, 328 and 329 PoCA) along with establishing separate civil powers for the search, seizure, detention and forfeiture of cash to the value of £1,000 or more, suspected of being the proceeds of crime, or intended for use in criminal activity (Sections 289, 294 and 295 PoCA).

Cash for the purposes of these civil powers within PoCA include:

- All notes and coins (in any current currency)
 - Postal Orders
 - Cheques of any kind (including travellers' cheques)
 - Bankers' Drafts
 - Bearer Bonds or Bearer Shares
 - Gaming vouchers
 - Fixed-value casino tokens
 - Betting receipts
- 2.1.3. These civil powers do not replace or amend the powers available to the police under the Police and Criminal Evidence Act 1984 (PACE) but are additional provisions they are able to utilise to further deprive criminals of their criminal proceeds.
- 2.1.4. Lincolnshire Police are committed to reducing the harm caused by crime through the removal of assets through the robust use of PoCA. Through

this we will reassure the public that crime does not pay and remove the means to further commit crime.

2.2. Principles

- 2.2.1. The retention of cash by criminals perpetuates and motivates their criminal endeavours. Therefore, action should be taken to remove suspected criminal property, through all legal means available to law enforcement.
- 2.2.2. The primary power to seize cash stems from PACE. In accordance with long-established common law principles PACE should be used to seize cash when there are reasonable grounds for believing that it has been obtained as a consequence of an offence, or that it is evidence in relation to an offence under investigation or any other offence and it is necessary to seize it in order to prevent it being concealed, disguised, converted, transferred, removed, lost, damaged, altered or destroyed.
- 2.2.3. Cash seized under PACE can then be retained so long as is necessary in all the circumstances, for use as evidence at a trial, for forensic examination or to establish its lawful owner if there are reasonable grounds for believing that it has been obtained in consequent of the commission of an offence.
- 2.2.4. If cash has been seized under PACE and is being retained under PACE there is NO requirement to immediately also seize the cash under PoCA.
- 2.2.5. Cash seized under PACE can be re-seized under PoCA later. Following this re-seizure of cash, subsequent detention or forfeiture applications can be applied for. If there is sufficient information at the stage of re-seizing the cash to make a forfeiture application immediately there is no requirement to apply for a detention order. (See *Merseyside Police v Hickman & Anor* [2006] EWHC 451 (Admin) (01 March 2006) and *Iqbal v South Bedfordshire Magistrates Court* [2011] EWHC 705 (Admin).
- 2.2.6. If cash is seized under PoCA either initially or re-seized following original seizure under PACE, then the formalities contained within sections 294 and 295 PoCA must be complied with.

2.2.7. The minimum amount for a PoCA seizure is currently £1,000.00. Following the lawful seizure and initial detention order of the cash (and any subsequent detention order if appropriate) the Police may apply to the Court to have the cash forfeited if they believe the cash is either recoverable property or intended by any person for use in unlawful conduct.

2.2.8. The responsibility to present the initial detention before Magistrates Court lies with the seizing officer. While this does not have to be presented by that officer, they must ensure a competent person attends the court in regard to presenting the initial detention hearing.

Provisions in section 297A to 297G of PoCA relate to the forfeiture of detained cash. Those provisions provide that a senior officer can give a 'forfeiture notice' to persons with an interest in cash that has been seized and detained, informing them of the intention to forfeit that cash would a hearing before a magistrates' court. The Administrative Forfeiture of Cash (Forfeiture Notices (England and Wales) Regulations 2015 sets out to whom and how this 'forfeiture notice' is to be given and what it must contain.

3. Other related documents and appendices

3.1. Appendices.

- Appendix A: Officers Practical Guide

Related documents

- Stop and Search Policy PD106
- Property in Police Possession Policy PD109

4. Monitoring and review

4.1. This policy will be subject to on-going review to ensure changes in guidance and legislation do not bring about the requirement for the policy to be changed. Any amendment to this policy is the responsibility of the Head of Economic Crime Unit.

- 4.2. The policy will be reviewed every two years. Earlier review may be prompted by any inefficiencies being identified or legislative changes.

5. Who to contact about this policy

- 5.1. This policy is owned by Head of Crime. Any enquires about this policy should be directed to Senior Financial Investigator Nicki Crawford, Economic Crime Unit, 01522 9(47203); nicola.crawford@lincs.police.uk.