

Financial investigations (Appendix G)

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Credit referencing agency check

There are a variety of ways that a credit check – for example, Experian or Equifax – can identify financial products, including bank accounts. In a modern slavery and human trafficking (MSHT) case, a credit check can identify:

- where victims are being housed, which may indicate the number of people living, or having lived, at the address
- whether loans, bank accounts and credit agreements are being taken out in the victim's name
- mobile phone contracts and bank accounts linked to suspects
- telephone numbers linked to application forms for financial products in the victim's name, which may provide an evidential link to the suspect

A financial intelligence officer (FIO), financial investigator (FI) or the local or force intelligence unit can advise on, or progress, credit reference checks.

Suspicious activity reports

Suspicious activity reports (SARs) alert law enforcement to potential instances of money laundering. SARs are made by financial institutions and other professionals, such as solicitors, accountants and estate agents, who have had cause to suspect that their clients are involved in money laundering.

SARs are a vital source of intelligence on a wide range of criminal activity, including organised crime. They provide information and intelligence from the private sector that would otherwise not be visible to law enforcement.

Some SARs provide immediate opportunities to stop crime and arrest offenders. Others help uncover potential criminality that needs to be investigated or provide intelligence useful in the future. Information provided through SARs, such as contact details, alias identities, investment

activity, bank accounts and other assets, can lead to the instigation of new investigations or enhance ongoing operations.

Multiple SARs on the same subject or company can identify new targets for operational activity. Information may lead to the recovery of the proceeds of crime by assisting in restraint orders, confiscation orders and cash seizures.

Joint asset recovery database

The joint asset recovery database (JARD) records all confiscation and forfeiture orders approved by the courts. A check can reveal whether a suspect or offender has been subject of an historic order reflecting criminal activity. It can also identify when an individual is, or has been, subject to a civil cash forfeiture or confiscation order, providing intelligence opportunities for the relevant agency.

Due to the multitude of agencies involved in asset recovery, JARD provides a single source of historic information on asset recovery cases. The financial intelligence or investigation officer can access and undertake a JARD check.

Land Registry

Land Registry data provides another opportunity to obtain evidence of criminality and identify assets for restraint and confiscation. An FI can undertake or advise on submitting a Land Registry check.

Financial orders and powers

Proceeds of crime legislation allows the court to approve a variety of orders to enable effective investigation into the movements of funds and/or assets suspected to be from criminal activity.

Pre-order enquiries

Before applying for any order, an officer should take reasonable steps to contact the relevant organisation and confirm the material sought is held. This initial contact is called a 'pre-order enquiry'.

Production order

Production orders direct a bank or financial institution to produce material – most commonly, copies of bank account statements – to an investigator. A production will only show activity up to the date of the order. If information is required after this date, a further order will need to be applied for.

Disclosure order

A disclosure order is a single order that can remain in force for the life of an investigation and prevents the need for an FI to apply for multiple production orders.

Restraint order

A restraint order prevents dissipation of assets, such as transferring money from a bank account or selling property. These are overt court orders. The suspect will be provided with a copy of the witness statement (and therefore all of the evidence) that supported the application for the order. Restraint orders have to be authorised by the Crown Prosecution Service Restraint Unit and can take some time to prepare. It is best to brief an FI as early as possible.

Account freezing order

Forces can make a civil application to have an account frozen with a view to an account forfeiture order being made.

Account monitoring order

Following an application made by an appropriate officer, a judge may make an account monitoring order if they are satisfied that each of the requirements for making the order are fulfilled. This order provides current transactional activity.

Account information is information relating to an account or accounts held:

- at the financial institution specified in the application
- by the person specified in the application (whether solely or jointly with another)

An account monitoring order is an order that the specified financial institution must provide account information:

- of the description specified in the order

- for the period specified in the order
- to an appropriate officer in the manner specified in the order
- at or by the time or times specified in the order

Confiscation and reparation orders

The process for obtaining confiscation and reparation orders is often complex. Early consultation with an FI is advised. The confiscation order can only be made following a criminal conviction. A confiscation order will always take primacy because it allows the court to assess how much the defendants have benefited from criminal activity in terms of lifestyle choices, assets and funds invested in financial products.

After the court has assessed the benefit from the criminal activity, it can then establish the value of assets available for confiscation and order the defendant to pay this amount.

If confiscation is approved, the prosecution can – if applicable – apply for a compensation order. In an MSHT case, the prosecution can apply a reparation order for the victims and require the defendant to pay the relevant amount from the value of the assets.

If a defendant fails to settle the orders, the court has options to extend a custodial sentence and/or approve for assets to be sold to satisfy the amount set.

The court will calculate the value of the defendant's benefit from criminal conduct and order the defendant to pay that amount (the recoverable amount). A reparation order allows the defendant's general lifestyle to be considered, not just the offence investigated. If the defendant can show that some or all of the amount is no longer available, they will be required to pay the available amount.

For further information, go to:

- [Financial intelligence development and investigative considerations for modern slavery and human trafficking offences](#) (login required)
- [Financial considerations for reparations under the Modern Slavery Act 2015](#) (login required)

National minimum wage

There may be occasions when labour exploitation investigations overlap with issues of non-payment of the [national minimum wage](#) by employers. Both the Gangmasters and Labour Abuse

Authority (GLAA) and His Majesty's Revenue and Customs (HMRC) have responsibilities to deal with this area of non-compliance.

In addition, knowledge of the minimum wage may assist in those circumstances where reparations are being considered following a conviction under section 1 or section 2 of the Modern Slavery Act 2015.

Tags

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