



**ORGANISED  
CRIME**  
TASK FORCE

# **Northern Ireland Assets Recovery Action Plan**

**2008-10**

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## Ministerial Foreword

As Chair of the Organised Crime Task Force (OCTF) I believe that taking the profit from criminality is one of the key weapons in tackling organised crime.

The OCTF partner agencies are taking ever greater amounts of money from individuals in Northern Ireland through the criminal and civil courts using the Proceeds of Crime legislation. We want to build on this success to date and put further pressure on the criminals so they understand they will not retain profits from criminal activities.

Last year I published a Northern Ireland Assets Recovery Action plan for 2007/08. We made a number of promises then; most of which have been met. We have;

- Obtained court orders to the value of £25.94 m, almost twelve times the target of £2.2m
- Increased both the number and value of cash seizures;
- Exceeded the Assets Recovery Agency (ARA) targets for disruption and recoveries in Northern Ireland although we missed the overall disruption target.

We did not meet the action to disrupt £35 m of assets in 2007/08 – the actual figure was £23.25m. Recovering assets can take time and I am confident that the number of cases in the pipeline for completion will see us meet our targets in the next two years.

This is good news for the law-abiding community in Northern Ireland and bad news for the criminals.

A major change that took place on 1 April this year was the merger of the Assets Recovery Agency with the Serious Organised Crime Agency (SOCA). ARA did a tremendous job in Northern Ireland and I pay tribute to all those who contributed to this success. SOCA will add the experience gained by ARA staff over the past five years to its own skills and expertise and create an even more effective crime-fighting machine with a global reach.

In this Assets Recovery Action Plan we have set ambitious targets for the next two years. These targets reflect the Northern Ireland contribution to the challenging overall targets which have been set by the Home Office. Our targets have been set to more accurately reflect the entire process of assets recovery including the value of cash seized, the value of cash forfeited, the value of court orders granted and the funds actually recovered. The targets have also been set collectively for all law enforcement agencies in Northern Ireland.

I will report on the outcome of the targets in the next OCTF Annual Report and Threat Assessment to be published in June 2009. Working together under the banner of the OCTF I am confident that we can achieve these targets. By doing so we can make a real difference by reducing the harm caused across Northern Ireland by organised criminals making Northern Ireland a safer and better place in which to live.

Paul Goggins MP

## What is Asset Recovery?

A key tools used to tackle organised crime are to seize, freeze and permanently deprive criminals of the benefit from their criminal activity, whether that be money, property or goods. We call this “**asset recovery**”. The aim of organised criminals is to make money so when we can take their profits from them, we strike at the core of their activity.

The relevant legislation in place to enable such recoveries to be made is the Proceeds of Crime Act 2002 (also known as POCA for short). The law has been added to and amended, especially through the Serious Organised Crime and Policing Act 2005. This powerful legislation has been used on numerous occasions in Northern Ireland over the past 4 years to seize, freeze and recover money from criminals both through the criminal and civil court.

Under POCA, there are **four different ways** we can act.

**First**, where a law enforcement agency (such as PSNI, HMRC or SOCA) discovers someone in possession of **cash they suspect is the proceeds of crime or intended for use in crime** (for example, during a search), they can seize this. They can then quickly apply to a Magistrate’s Court for the cash to be detained while enquiries are on-going. This is called **cash seizure**. Subsequently a court can be asked to make an order to allow this money to be retained permanently. This is known as a **cash forfeiture order**.

### **Case Study**

*In October 2007 a director of a Money Service Business known as “BYFEX Company Limited” at Dublin Road, Newry contacted a bank to make a cash withdrawal of £100,000. This was considered to be an unusually large cash withdrawal for this customer/account.*

*The withdrawal was subsequently made and, as part of Operation Gambo, the persons were stopped by police and the money seized. After arrest ( for suspected criminal activity including Money Laundering, specifically Concealing, Converting, Using and Removing suspected Criminal Property from the Jurisdiction and Facilitating Money Laundering) the business premises were searched where a total of £708,531.75 has been seized under the Proceeds of Crime Act.*

**Second**, if an individual **is convicted of a criminal offence**, as part of the sentencing process, the Court can look at whether that person has benefited financially from committing that offence. Where the conviction is for a certain type of offence committed over a period of time (for example drug trafficking), the court can also look at whether the person has a criminal lifestyle generally. If the Court decides that the convicted person has benefited financially from the crime or that he or she has a criminal lifestyle, it can order that person to pay an amount of money as part of the sentence. This is called a **Confiscation Order**.

If the criminal does not pay this money, then he or she can be sentenced to a period of imprisonment, or if already in prison, have their sentence extended. Even if they do go to prison for non-payment of the Order they still have to pay the money owed.

Law enforcement agencies can also apply to a court for an order to “restrain” or deny use of the assets of a suspect to stop them disposing of the assets before the court makes a final decision about a Confiscation Order.

**Case Study**

*In 2007, following a joint PSNI/HMRC operation, HMRC successfully obtained convictions against Patrick and John McParland for tax evasion in Belfast Crown Court. Each was fined over £1m and the court granted a Confiscation Order for £3.4m to be paid within 12 months with imprisonment if the Order is not paid. This is the largest Confiscation Order ever made in Northern Ireland.*

**Third, assets obtained through unlawful conduct can be recovered through civil proceedings by the Serious Organised Crime Agency or prosecutors, such as the PPSNI.** In other words in cases where a person may not have been convicted of a criminal offence, but where a court is satisfied that assets in their possession are the “proceeds of crime”, the court can make an order which removes these assets from that person. These are known as **recovery orders**. This work was previously undertaken by the Assets Recovery Agency (ARA)

**Case Study**

*In 2003 PSNI referred a case to ARA centred on Mr William Wilson. In March 2004, after a detailed preliminary investigation ARA successfully applied to the High Court for an Interim Receiving Order (IRO). ARA alleged that William Wilson and Christine Wilson had acquired the majority of their assets as a result of Mr Wilson's drug dealing activities, tax evasion and other acquisitive crime. The Receiver conducted a full investigation into the origins of the assets held by William and Christine Wilson. The case came to trial in June 2006. In his June 2007 judgement Mr Justice Higgins concluded:*

*“Simply put [Mr Wilson's] assertions relating to the source of all his money are not credible. In his evidence he demonstrated all the attributes associated with cunning and resourceful dishonesty.”*

*The Recovery Order made by the Court on 6th June 2007 enabled ARA to recover all of the assets subject to the initial IRO. All of the assets, bar one property, were enforced by ARA, with £229,100 being returned to the public purse after disbursements.*

Prior to this stage, SOCA can ask the High Court to freeze assets believed to be the proceeds of unlawful conduct to stop them being used or disposed of before the court makes a decision in relation to a Recovery Order.

**Fourth, SOCA can issue a tax assessment** where it has reasonable grounds to suspect that an income, gain or profit which is liable for tax, is derived from criminal conduct. In such cases, the individual may have to pay the tax owed together with all relevant penalties and interest. HMRC's Criminal Taxes Unit also target taxable income from criminal activity, working alongside law enforcement agencies. Unlike SOCA, it does not need to demonstrate that criminal conduct has occurred to issue a tax assessment.

## Home Office Asset Recovery Action Plan

This Northern Ireland Assets Recovery Action Plan is directly linked to the Home Office Assets Recovery Action Plan published on 24 May 2007. Action point 18 of that Plan refers to this and future Northern Ireland Action Plans. One of the key aims of the Home Office plan was to demonstrate how law enforcement agencies and others will help Government, in the **short term**, reach the target of recovering £250m of assets from criminals by 2009/10.

The Government's Asset Recovery Action Plan published last year made commitments on further legislation, subject to consultation. The respondents to the consultation supported the measures that are being brought forward.

Improving the arrangements for the recovery of assets is one of the main elements of the Policing and Crime Reduction Bill which was announced by the Prime Minister in May as part of the Draft Legislative Programme 2008-09. The main elements of the Bill, including asset recovery can be found at [www.direct.gov](http://www.direct.gov).

The asset recovery provisions for the Bill will not only assist operationally in delivering the Government's targets in this area but also improve public confidence in the criminal justice system.

The Northern Ireland Office supports introduction of these proposals to Northern Ireland.

## Cross-border activity

Agencies in Northern Ireland work closely with their counterparts in the Republic of Ireland to tackle organised crime. Organised criminals either ignore the border or use it to maximise the profits they make from their activities. It is important therefore to ensure co-operation is as close as it can be.

ARA and the Criminal Assets Bureau (CAB) have worked very closely together in the past. We expect SOCA to build on this close relationship.

### **Case Study**

*In 2003 PSNI referred a case to ARA centred on Colin Robert Armstrong and Geraldine Mallon of Glenavy, County Antrim.*

*In March 2005, after a detailed investigation lasting over 18 months and involving close co-operation with the Criminal Assets Bureau (CAB) in the Republic of Ireland, ARA successfully applied to the High Court for an Interim Receiving Order. ARA alleged that Mr Armstrong had been involved in a wide range of acquisitive crime over a considerable period of time. In the case of Geraldine Mallon, ARA alleged that certain assets derived from Mr Armstrong's illegal activities were held in her name. In its application to the High Court ARA had originally identified assets valued at an estimated £3.75 million (gross), including some 32 properties in Northern Ireland, Dublin and France. Following the appointment of the Interim Receiver, further properties were identified and frozen, bringing the total estimated gross value of the assets to around £4.8 million. The case came to trial in January 2008.*

*In January 2008 Armstrong and Mallon agreed to settle the case with ARA. The recoverable assets currently being enforced include 40 properties with a net value estimated to be in the region of £4 million. This case currently represents the ARA's largest recovery in Northern Ireland.*

Also during 2007 provisions were included in the Serious Crime Act to ensure that HMRC could pass information to CAB in respect of civil cases. This countered a loophole following the amalgamation of the Revenue and Customs functions that meant such information could not be passed.

At a strategic level, the NIO and Department of Justice, Equality and Law Reform in the Republic of Ireland held a cross-border conference in Enfield in October 2007. Representatives of law enforcement agencies both north and south came together for two days to agree measures to further enhance their efforts against organised crime, including assets recovery.

## Performance against 2007/08 Plan

This section of the document sets out our performance against the 13 action points contained in the 2007/08 plan.

### Performance Against Action Points

Against each of the action points in the 2007/08 Plan the following progress was made;

Action Point	Achievement
<p><b>Action Point 1</b> PSNI will increase the number of cash seizures made under POCA in 2007/08 compared to the total seizures in 2006/07.</p>	<p>In 2007/08 PSNI made 137 cash seizures. An increase of 54% on the previous year.</p>
<p><b>Action Point 2</b> ARA will disrupt assets believed to be the proceeds of crime of between £4m-£9m in Northern Ireland during 2007/08. Police and HMRC will also continue to take action to restrain the assets of criminals under investigation. Overall, we plan to match last year's total of £35m in restraining or freezing assets.</p>	<p>In 2007/08 ARA disrupted assets to the value of £11.4 m in Northern Ireland which is above the £4 - £9m target. PSNI and HMRC disrupted assets to the value of £11.85 m. Overall this means that £23.25m assets were restrained or frozen. This is below the target of £35m.</p>
<p><b>Action Point 3</b> Law enforcement agencies and ARA will aim to increase the value of court orders obtained in Northern Ireland to in excess of this year's figure of £2.2m.</p>	<p>In 2007/08 court orders to the value of £25.94m were obtained by ARA, PSNI and HMRC. This is above the target of £2.2m.</p>
<p><b>Action point 4</b> NIO will from 1 April 2007, publish figures on a 3 monthly basis showing what has been achieved in Northern Ireland in terms of seizing cash, obtaining orders for payment or disrupting assets.</p>	<p>Figures were published in July, October 2007 and January 2008. Annual figures were published in June in the OCTF Annual Report and Threat Assessment 2008</p>
<p><b>Action Point 5</b> The Public Prosecution Service and NI Court Service will continue to work together to improve the timely enforcement of unpaid confiscation orders.</p>	<p>Representatives of PPS and NICtS continue to meet on a regular basis to review unpaid confiscation orders and identify those cases where enforcement action is required.</p>

<p><b>Action Point 6</b> The OCTF will issue leaflets to some 2,000 businesses in Northern Ireland that might be attractive to organised criminals seeking to launder money explaining the need for all suspicious activity to be notified to the authorities.</p>	<p>In November 2007, letters and leaflets were issued to 1,600 businesses across Northern Ireland detailing the legal obligations around SARs (suspicious activity reports).</p>
<p><b>Action Point 7</b> The OCTF will consider the options to set targets for asset recovery in Northern Ireland for 2008/09 onwards and report to Ministers.</p>	<p>Targets for 2008/09 and 2009/10 are contained in this document. The targets are challenging and have been set based on Northern Ireland's contribution to the Home Office target to recover £250m (net of costs) by 2009/10. The revised targets also reflect more clearly the process of assets recovery, namely; the seizure and freezing of assets, value of court orders and the net value of assets recovered.</p>
<p><b>Action Point 8</b> Once the relevant legislation (to allow criminal assets worth under £10,000 to be confiscated at a Magistrate's Court) is made, judiciary, court staff, police officers and prosecutors will receive training in implementing this to allow cases to be heard in this court in the future.</p>	<p>The legislation has not yet been introduced but training will be provided as required.</p>
<p><b>Action Point 9</b> During 2007/08, the OCTF will provide information on a 6 monthly basis about how the 50% of criminal assets recovered in Northern Ireland and given back to law enforcement agencies is used.</p>	<p>Criminal assets recovered in Northern Ireland have been put to a variety of uses, including to;</p> <ul style="list-style-type: none"> <li>• meet on-going running costs;</li> <li>• support 60 new financial investigators for PSNI;</li> <li>• part-fund an advertising campaign to deter the public from buying fake goods</li> </ul>
<p><b>Action Point 10</b> The NIO will ensure that Northern Ireland requirements are taken fully into account as part of the review of incentivisation and report the outcome by 31 March 2008.</p>	<p>NIO has ensured that the Home Office is aware of the views of Northern Ireland stakeholders. The final Home Office proposals have not yet been issued.</p>

<p><b>Action Point 11</b>  PSNI will increase the number of financial investigators from 31 to 50 by 31 March 2008 and in conjunction with its training partner ARA train a total of 59 financial investigators across a range of agencies in Northern Ireland during 2007/08.</p>	<p>PSNI have trained and located an additional 66 Financial Investigators within the 8 new Districts. Training of financial investigators continues during 2007/08 although final numbers are not available.</p>
<p><b>Action Point 12</b>  Northern Ireland Executive Departments and Agencies will seek to increase the number of accredited financial investigators working in Departments.</p>	<p>Environment and Heritage Service appointed 7 accredited Financial Investigators in 2007/08 with a further one awaiting accreditation. The Social Security Agency is likely to recruit a Financial Intelligence Officer soon.</p>
<p><b>Action Point 13</b>  The NIO will report publicly on a regular basis on progress towards the SOCA/ARA merger and how the assurances above are being met.</p>	<p>The merger between SOCA and ARA was achieved on 1 April 2008.</p> <p>NIO Minister Paul Goggins and Home Office Minister Vernon Coaker discussed the merger during the year and together met with ARA staff in Belfast in advance of the merger to provide information and to reassure ARA staff and the public that the merger would result in no diminution of effort to recover proceeds of crime in Northern Ireland.</p>

## What actions are we going to take in 2008/09 and 2009/10?

**We will build on the successes we have made in the past.** To do so we have set challenging targets on seizure, forfeiture and recovery of assets.

### **Action Point 1**

Law enforcement agencies operating in Northern Ireland will increase on a year-on-year basis the number of cash seizures in both 2008/09 and 2009/10 when compared to the 2007/08.

### **Action Point 2**

Law enforcement agencies operating in Northern Ireland will increase on a year-on-year basis the value of cash seizures in both 2008/09 and 2009/10 when compared to 2007/08.

### **Action Point 3**

Law enforcement agencies operating in Northern Ireland will increase on a year on year basis the value of cash forfeited in both 2008/09 and 2009/10 when compared to 2007/08.

### **Action Point 4**

Law enforcement agencies operating in Northern Ireland will increase on a year-on-year basis the value of court orders obtained (both criminal confiscation and civil recovery) in 2008/09 and 2009/10 when compared to 2007/08.

### **Action Point 5**

Total criminal assets recovered (net of costs) in Northern Ireland will be within the range £6.2m - £10.0m in 2008/09 and £7.8m- £12.5m in 2009/10.

**We will keep the public informed** about progress in tackling the assets of criminals.

### **Action point 6**

The OCTF will from 1 April 2008, for the period covered by this report, publish figures on a 3 monthly basis showing progress against action points 1 - 5 above.

**We will re-invest assets recovered in front-line services.** Where law enforcement agencies get court orders to take assets permanently from criminals, 50% of the money recovered is given back to use in front line work. This is known as **incentivisation**.

This can be used to meet running costs of organisations, it can be shared with those who help secure the money, such as the NI Public Prosecution Service and the NI Court Service or be used for other specific purposes, for example by PSNI to recruit and employ additional financial investigators. We will also work to explore ways of putting some of this money back into communities.

#### **Action Point 7**

At the end of 2008/09 and 2009/10, the OCTF will provide information on how the 50% of criminal assets recovered in Northern Ireland and given back to law enforcement agencies has been used.

**We will take every opportunity to examine whether assets can be seized.** The recovery of assets is playing an increasingly large part in criminal investigation. More and more, law enforcement agencies are conducting financial investigations alongside their criminal inquiries.

Financial investigation is highly specialised work. An investigator has to be able to uncover the whereabouts of money that a suspected criminal will have done his best to hide. It's not only law enforcement agencies who detect criminals and their activities. Government Departments are also involved in the fight against organised crime. Criminals are involved in activities such as benefit fraud and illegal dumping, which can net huge sums for them.

#### **Action Point 8**

Law enforcement agencies will increase the number of financial investigators working in Northern Ireland by March 2010. During the period of this report we will train additional financial investigators across a range of agencies in Northern Ireland.

**We will support new measures brought forward to help remove the profits of crime from organised criminals.** The Home Office is currently looking at how the process of assets recovery may be streamlined and is assessing responses to its consultation on this subject.

#### **Action Point 9**

We will contribute to the Home Office considerations following their consultation exercise in 2007 and will support and implement any new measures to allow more criminal assets to be recovered.

**We will seek to reduce the harm caused by organised crime.** A key objective of the POCA legislation is to reduce harm caused by organised crime. We are working towards establishing by the end of March 2009 a baseline that will measure the perception of the impact of organised crime. We have introduced questions into the latest Northern Ireland Crime Survey to assist this process.

#### **Action Point 10**

At the end of 2008/09 we will report on progress towards measuring harm caused by organised crime.

**We will to ensure that the OCTF refocuses its efforts to meet emerging threats.**  
A function of the Organised Crime Task Force (OCTF) is to make a strategic analysis of emerging threats from organised crime and respond accordingly.

**Action Point 11**

At the end of 2008/09 and 2009/10 we will report on any OCTF structural changes made during the year to address emerging trends.

**Action Point 12**

We will review the structure and operation of the OCTF during 2008/09 and report on the outcome of this review.