



Home Office

Draft Codes of Practice issued under the Proceeds of Crime Act 2002 and the Terrorism Act 2000

Government consultation

This consultation begins on 28th March 2023

This consultation ends on 20th June 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 28th March 2023 to 20th June 2023

Responses and enquiries (including requests for the paper in an alternative format) to: POCA/TACT Codes of Practice,
Homeland Security Group,
6th Floor,
Peel Building Home Office
2 Marsham Street London
SW1P 4DF

POCACOPConsultation@homeoffice.gov.uk

Please respond by 20th June 2023

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Introduction

The Proceeds of Crime Act 2002 (POCA) contains a comprehensive legal framework for the investigation and recovery of the proceeds of crime.

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.

Three existing Codes of Practice need to be updated and one new Code of Practice made to reflect possible changes made to POCA by the Economic Crime and Corporate Transparency Bill¹ (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.

It is also intended that the new civil forfeiture cryptoasset powers will be replicated in Schedule 1 to the Anti-Terrorism Crime and Security Act 2001 (ATCSA) and Schedule 6 to the Terrorism Act 2000 (TACT). The equivalent Code of Practice in Schedule 1 to ATCSA also needs to be updated.

Both POCA and TACT provide 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.

This consultation seeks views on five Codes issued by the Home Secretary, which provide guidance to certain officers in England, Wales and Northern Ireland. The Attorney General has published a consultation in tandem with this one, which seeks a view on one further Code, which provides guidance for prosecutors in England, Wales and Northern Ireland.

This consultation seeks views on amendments made to the following Codes:

- a) Code of Practice issued under Section 47S of the Proceeds of Crime Act 2002 – Search, Seizure and Detention of Property (England and Wales)
- b) Code of Practice issued under Section 195S of the Proceeds of Crime Act 2002 – Search, Seizure and Detention of Property (Northern Ireland)
- c) Code of Practice issued under draft Section 303Z25 of the Proceeds of Crime Act 2002 (inserted by Schedule 7 of the ECCT Bill) – Recovery of Cryptoassets and Related Items: Search Powers (NEW CODE)
- d) Code of Practice issued under Section 377 of the Proceeds of Crime Act 2002 – Investigations

¹ This is subject to powers being inserted into POCA by the Economic Crime and Corporate Transparency Bill being passed by Parliament and receiving Royal Assent

- e) Code of Practice for Officers acting under Schedule 1 to the Anti-Terrorism, Crime and Security Act 2001 (amended through powers under Schedule 14 to TACT)

To note, an updated draft of the Investigations Code of Practice issued under section 377 of POCA was most recently consulted on in May 2022 to reflect changes to the Unexplained Wealth Order regime made by the Economic Crime, Transparency and Enforcement Act 2022 (ECTE 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 Unexplained Wealth Order regime and powers to increase the recovery of cryptoassets.

The Proposals

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

This consultation relates to five draft Codes governing the exercise of powers that will be provided by the Economic Crime and Corporate Transparency Bill.² 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 to these Codes?

Question 2

Will the proposed amendments to these Codes have an adverse impact on your organisation?

Question 3

Do you have any other comments relating to these Codes?

Thank you for participating in this consultation.

² This is subject to powers being inserted into POCA by the Economic Crime and Corporate Transparency 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

Please send your response by 20th June 2023

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:

POCACOPConsultation@homeoffice.gov.uk

POCA and TACT Codes of Practice,
Homeland Security Group,
6th Floor,
Peel Building Home Office
2 Marsham Street London
SW1P 4DF

If we believe that your response relates to the Code of Practice issued by the Attorney General's Office we will share your response with them, or other relevant Government departments.

Complaints or comments

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

Extra copies

Further paper copies of this consultation and alternative format versions of this publication can be requested from POCACOPConsultation@homeoffice.gov.uk

Representative groups

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

Confidentiality

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).

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.

The Home 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

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>



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Any enquiries regarding this publication should be sent to us at POCACOPConsultation@homeoffice.gov.uk.