



Proceeds of Crime

NEWSLETTER EDITION 3 – SEPTEMBER 2024

KINGSLEY NAPLEY
WHEN IT MATTERS MOST

Welcome to the third edition of the KN Proceeds of Crime newsletter, which has been prepared by [our team](#) of specialist lawyers.

In this edition, covering important developments from the end of 2023 and the first half of 2024, we highlight a number of civil recovery cases in which the NCA has made extensive use of its civil recovery powers, the launch of a new economic crime unit at the Environment Agency, and some important Court of Appeal judgments which clarify key principles of the Proceeds of Crime Act 2002.

The contents of this newsletter are for information only, and must not be relied on as legal or professional advice. For further information or advice on any of the issues we have written about here, please speak to your usual KN contact, or use [this form](#) to contact the specialist Proceeds of Crime and Money Laundering team.

Thank you to and Phil Taylor, Úna Campbell and Simran Tatla for their help in preparing this newsletter.



Nicola Finnerty
Partner



Key Statistics

400

arrests were made as part of the multi-agency Operation Henhouse this year.

£104m

is the total amount of cash smuggled in suitcases over a 12-month period.

Key Acronyms

AML – Anti-money laundering

AMLA – Anti-money Laundering Authority

AFO – Account freezing order

CFT – Combatting the financing of terrorism

CPS – Crown Prosecution Service

DAML – Defence against money laundering

DPA – Deferred Prosecution Agreement

ECCTA – Economic Crime and Corporate Transparency Act 2023

FATF – Financial Action Task Force

FCA – Financial Conduct Authority

FIU – Financial Intelligence Unit

MLRs – The Money Laundering Regulations 2017 (as amended)

NCA – National Crime Agency

PEP – Politically exposed person

POCA – Proceeds of Crime Act 2002

SAR – Suspicious Activity Report

SFO – Serious Fraud Office

UWO – Unexplained wealth order

Account freezing orders, account forfeiture orders & unexplained wealth orders

Visit [this page](#) for more information about AFOs, and [this page](#) in relation to UWOs.

Case: NCA obtains first UWO in Northern Ireland

In *National Crime Agency v Aidan (Aiden) Grew, Nuala Grew (No.2)* [2023] NIKB 74, the King's Bench Division (Northern Ireland) heard a case involving the NCA's authority to operate in Northern Ireland, specifically its ability to bring UWO proceedings under POCA.

The defendants argued that the NCA lacked legal capacity to operate in Northern Ireland, contending that the necessary process for the enactment of the relevant piece of secondary legislation (the Crime and Courts Act 2013 (National Crime Agency and Proceeds of Crime) (Northern Ireland) Order 2015) had been flawed because the Northern Ireland Assembly had not given the required consent to the order as stipulated by the Crime and Courts Act 2013.

In a judgment delivered in June 2023, the court rejected this argument, clarifying that during the parliamentary process, delegated legislation cannot be amended and must reflect the final order approved by both Houses of Parliament. The draft order reviewed by the Northern Ireland Assembly was consistent with the final order, meaning the Assembly's consent was valid. The court further noted that interpreting the relevant statutory provisions to require consideration of only the final order, rather than the proposed draft, was illogical.

In May 2024, the NCA obtained a UWO against Aidan Grew, the first ever granted in Northern Ireland. In its application, the NCA claimed that Mr Grew had been involved in serious criminal activity over many years. Rooney J granted the order, which relates to a house built in County Armagh. Under the terms of the UWO, Mr Aidan must explain the origin of previously unaccounted for construction costs amounting to £70,000.

May 2024 – [The Irish News](#)

AML compliance

Environment Agency launches economic crime unit

The Environment Agency has launched a new Economic Crime Unit (ECU) to strengthen its fight against money laundering and conduct financial investigations in the waste sector, aiming to ensure that crime doesn't pay. This new unit expands on the success of the previous Financial Investigations Team, which was effective in seizing assets. The ECU will consist of Accredited Financial Investigators, Financial Intelligence Officers, and a Financial Crime Analyst, with two primary teams: the Asset Denial Team and the Money Laundering Investigations Team.

The Asset Denial Team will handle account freezing orders, cash seizures, and confiscations, ensuring that illegally obtained funds are forfeited. The Money Laundering

Recent government policy changes have also empowered regulators with new tools to tackle waste criminals.

Investigations Team will conduct dedicated investigations into money laundering related to environmental crimes, with convictions carrying a potential 14-year prison sentence, serving as a strong deterrent.

The Environment Agency's broader efforts to combat waste crime include partnerships with law enforcement agencies and the use of advanced databases like the Police National Computer. Recent government policy changes have also empowered regulators with new tools to tackle waste criminals, such as mandatory digital waste tracking.

The launch of the ECU is part of a wider strategy to end waste crime, which costs the UK economy an estimated £1 billion annually. The ECU's work will complement ongoing efforts to intercept illegal waste shipments and shut down criminal operations more quickly, demonstrating the agency's commitment to preventing criminals from profiting from environmental offences. More information can be found in [this Law360 article](#) [requires registration] written by Sophie Wood, Legal Director at Kingsley Napley.

February 2024 – [Government / EA press release](#)

HM Treasury publishes 2022-23 AML/CTF supervision report

The latest AML/CTF supervision report has been issued by the UK Treasury. The report provides information about the performance of AML supervisors between 6 April 2022 and 5 April 2023. Among other things, the report states:

- The reporting period saw 5,253 desk-based reviews and onsite visits conducted by all AML/CTF supervisors "which translates to 5.5% of AML/CTF-regulated businesses"
- Supervisors' returns showed that approximately 10% of all regulated businesses were identified as high risk, as compared with 9% in 2020-21 and 11% in 2021-22.

Elsewhere, the report notes that the FATF "is soon to begin its fifth round of assessments of global efforts to tackle money laundering, and terrorist and proliferation financing", and that as part of this "the UK will undergo an in-depth evaluation by its peers, resulting in a new Mutual Evaluation Report (MER)." This MER will be published in 2028. The report also mentioned that work on the UK's next National Risk Assessment for money laundering and terrorist financing will commence shortly.

May 2024 – [Government policy paper](#)

EU regulators required to report money laundering suspects to central database

From May this year, national AML supervisors across the EU were able to start reporting information on named individuals (i.e. natural persons) who have been linked with serious AML-related deficiencies to EurReCA, the bloc's centralized anti-money laundering database. Such individuals could be customers, beneficial owners or senior managers of regulated firms.

The European Banking Authority (EBA) uses EurReCA to share information across the EU. Since January 2022, national supervisors have been required to report information on

serious deficiencies; the expansion of the information gathering to individuals is likely to provide significant further intelligences, strengthening the fight against financial crime.

May 2024 – [EBA press release](#)

European lawmakers adopt final elements of new AML directive

The Council of the EU has published and formally adopted the legislative texts of the sixth Money Laundering Directive (MLD6), the AML/CFT Single Rulebook Regulation and the Regulation establishing the Anti-Money Laundering Authority (AMLA), following the European Parliament's formal adoption of the texts in April 2024. We have previously reported on the proposed regulatory and investigatory powers of the AMLA.

Earlier in the year, the European Parliament and Council of the EU chose Frankfurt as the seat of the AMLA.

6MLD harmonises AML rules for throughout the EU for the first time, and extends the rules to new 'obliged entities' (expanding the scope of the regulated sector) including most of the crypto-sector, traders of luxury goods and football clubs and agents. Once 6MLD applies (three years after it comes into force), regulated entities will need to follow tighter due diligence and beneficial ownership rules; there will also be a limit of €10,000 on cash payments.

May 2024 – [Council of the EU press release](#)



Asset recovery/forfeiture

Land in Northern Ireland recovered following NCA investigation

The NCA has successfully recovered a plot of land in Blackwatertown, County Armagh, Northern Ireland, in a civil recovery investigation. The land, owned by Patrick Joseph White from Widnes in England, was allegedly purchased for £100,000 with funds obtained from fraud and money laundering activities. The NCA, in collaboration with the Joint Agency Task Force, secured a recovery order by consent under POCA at the High Court in Belfast.

Since May 2023, the land had been subject to a property freezing order, which prevented any sale or transfer of ownership while the NCA investigated the funds' origins. A Trustee for Civil Recovery has now been appointed to manage the land's value realisation.

February 2024 – [NCA press release](#)

Operation Henhouse results in seizure of £19 million and multiple AFOs

Conducted between February and March 2024, Operation Henhouse was the third phase of a multi-agency effort spearheaded by the National Economic Crime Centre and City of London Police. It involved a comprehensive effort with all UK police forces, Regional Organised Crime Units, and national agencies, including the Financial Conduct Authority, NCA, Serious Fraud Office, and National Trading Standards.

The operation yielded significant results: 211 voluntary interviews, 283 cease and desist notices, £5.1 million-worth of AFOs issued, and £13.9 million in cash and asset seizures. High-value assets seized included luxury cars, designer items, and substantial amounts of cash. The operation also saw collaborative efforts across different regions and with various partners. For instance, Tarian Regional Organised Crime Unit, in collaboration with the Gambling Commission and HMRC, executed raids in Cardiff.

March 2024 – [NCA press release](#)

NCA recovers £1 million from three defunct companies

Following a 13-year money laundering investigation conducted by the NCA, and without criminal money laundering proceedings taking place, a High Court judge has ruled that funds derived from tax fraud could be forfeited. The funds were in bank accounts held by three now-dissolved companies alleged to be part of an international money laundering network. After the companies were struck off the register, the funds in the accounts became bona vacantia.

The NCA's investigation was focused around two individuals, Jonathan and Amanda Nuttall. Mr Nuttall was alleged to have been associated with five companies linked to organized crime. According to the NCA, those companies had received approximately £75 million in diverted tax funds; only £20 million of that amount was paid to HMRC. Much of the remainder was diverted and paid to accounts overseas in a complex series of transactions. In 2019, Mrs Nuttall was required under a civil recovery order to hand over assets, and reached a settlement with the NCA whereby she made a payment of £1.4 million. The NCA later discovered the settlement funds were not legitimately obtained, and pursued further claims, which were settled by consent.

At a hearing at the High Court in July, Knowles J agreed that the NCA could recover the funds it had identified in three bank accounts.

July 2024 – [The Independent](#)



Civil recovery investigation nets £5.8 million

The NCA has obtained a £1 million civil recovery order from bank accounts it says have been used as part of an international money laundering network, bringing the total amount recovered during its multi-year investigation to £5.8 million.

The investigation was focused on the assets of Gregory Candy-Wallace. The NCA alleges those assets were part of a scheme to divert tax and National Insurance payments away from HMRC.

Court filings made in December 2020 claimed an organised crime group had diverted more than £50 million of payments away from HMRC and channelled funds overseas via a complex network of UK accounts.

On 19 June 2024, a settlement was reached between Mr Candy-Wallace and companies he controlled. Under the terms of the settlement, the NCA recovered a UK residential property valued at approximately £1.7million and the balances of five UK company bank accounts totalling approximately £1.2million. These sums were in addition to £1.7million previously recovered from accounts held by two other companies and alleged to have been used as part of the money laundering network.

June 2024 – [NCA press release](#)

NCA obtains first ever forfeiture of UK sanctioned funds

The NCA has for the first time secured the forfeiture of sanctioned funds under POCA. The NCA claimed that the funds, totalling just over £780,000, had been held for the benefit of the former head of Alfa-Bank, who was made subject to UK sanctions in 2022.

The NCA says that transactions made after March 2022 were in breach of sanctions. That year, nine AFOs were granted in relation to bank accounts and detained cash.

An agreement for the forfeiture of £783,827.34 was ratified at Westminster Magistrates Court on 29 July 2024.

July 2024 – [NCA press release](#)

The NCA recovered a UK residential property valued at approximately £1.7million and the balances of five UK company bank accounts.

Gambling regulation

Bet365 fined almost £600k for regulatory breaches

Bet365 has been [fined](#) £582,120 following the discovery of AML and social responsibility failures at its online business. The penalty, resulting from a compliance assessment by the UK Gambling Commission in March 2022, was split between Hillside (UK Gaming) ENC, responsible for Bet365's bingo and casino products (£343,035), and Hillside (UK Sports) ENC, which manages betting operations (£239,085). The funds will be directed towards socially responsible causes as part of a regulatory settlement.

The AML issues involved insufficient enhanced due diligence and ineffective know-your-customer triggers, failure to conduct financial sanctions checks on new customers before their first deposits, and overreliance on customers'

self-verification for identification documents without independent verification. Additionally, Bet365's procedures lacked clear guidelines for identifying customers "at risk" of money laundering.

Kay Roberts, the Gambling Commission's Executive Director of Operations, acknowledged that while these failings might not have been as severe as those at other gambling firms, they were significant enough to warrant regulatory action. She emphasised the importance of maintaining high standards in the industry to keep gambling safe, fair, and free from criminal activity, warning that repeated failures would lead to more severe penalties.

April 2024 – [Gambling Commission press release](#)

Money laundering

Visit the [KN AML Hub](#) for curated links and other resources on AML.

Case: Court affirms approach to determining what amounts to criminal property

In *R v Porter & Anor* [2023] EWCA Crim 1485, the Appellants, Jonathan Porter and Peter Stanley appealed against their convictions for breach of section 328(1) of POCA.

The case against them was that they had facilitated the laundering of money derived from evading alcohol duty, and that this amounted to participating in a money laundering scheme.

The scheme allegedly involved smuggling goods into the UK, selling them at a lower price to cash-and-carry businesses without paying the appropriate duties, and using the profits to buy more duty-evaded goods. Cash couriers delivered the proceeds to a company called ETL, where the money was split.

The Appellants had contested the sufficiency of the evidence, arguing that the cash involved could not be classified as criminal property because duty evasion is not directly a money laundering offence. The Court of Appeal dismissed this argument, asserting that the cash was indeed criminal property as it represented the benefit flowing from the earlier criminal evasion of duty (rather than being funds generated by the sale of duty-evaded alcohol, in which case the prosecution's argument would have failed). The Appellants' claim that the prosecutor's approach was contrary to legal precedent was also dismissed.

December 2023 – [Judgment on BAILII](#)

Jonathan Porter and Peter Stanley were convicted of facilitating the laundering of money derived from evading alcohol duty.

Case: Court of Appeal clarifies the knowledge / suspicion requirement of the s328 offence

In *R v Gross (Jacob)* [2024] EWCA Crim 21, the Court of Appeal confirmed that the law only required a jury to be sure that the defendant knew or suspected that monies going through his accounts were criminal property, in order to convict them of an offence under section 328 of POCA. The jury did not have to find that the defendant knew or suspected that monies came from a specific illicit activity (in this case the sale of prescription-only medicines and counterfeit medicines).

The defendant had appealed against his convictions for entering into an arrangement to use or control criminal property contrary to section 328, and acquiring criminal property contrary to section 329. The basis of his appeal was that the emphasis at trial had been on the sale of prescription-only medicines and counterfeit medicines, but late in the proceedings, in response to a note from the jury note, the judge gave a direction that it was sufficient that the defendant knew or suspected that the monies going through the accounts were criminal property; the lateness of this direction thereby rendered his convictions unsafe.

The Court of Appeal disagreed, dismissing the appeal.

January 2024 – [Judgment on BAILII](#)



Members of the criminal group made a total of 2,376 deposits of cash.

Members of prolific money laundering group imprisoned

A group of six people have been found guilty of money laundering offences under POCA following an investigation by HMRC. The group reportedly laundered £26 million, the proceeds of alcohol duty fraud, to Dubai by making use of seven companies, a false paperwork trail and cash couriers. Members of the group made a total of 2,376 deposits of cash over the course of nearly a year, travelling from their base in Buckinghamshire.

The group was led by Mohammed Zafer; he was sentenced to 12 years in prison following a trial at Reading Crown Court. His cousin, Shehbaz Iqbal, was also convicted and sent to prison for three years. The other four members pleaded guilty and were given sentences of between two years and four years and nine months.

February 2024 – [HMRC press release](#)

Home Office grants new POCA investigative powers following consultation

Between 7 December 2022 and 1 March 2023, the Home Office conducted a public consultation to gather opinions on granting six types of investigative powers to five additional organisations under section 453 of POCA. The organisations considered for these powers were the Security Industry Authority, Food Standards Agency, Environment Agency, Public Sector Fraud Authority, and the Department for Work and Pensions.

Only five responses were received, primarily from organisations already holding, or set to receive, Asset Forfeiture Investigations (AFI) powers. Most respondents supported granting these investigative powers to the listed bodies, with strong agreement on the necessity of these powers. Notably, two police forces highlighted the importance of these powers for the Public Sector Fraud Authority, emphasising their role in enhancing the fight against public sector fraud.

There was one dissenting opinion from a member of the public who opposed the new powers for one of the organisations, although they did not provide specific reasons for their objection.

Based on the consultation feedback, the Home Office decided to grant the powers to all five organisations. This decision was formalised in an order made on 25 March 2024, which took effect on 26 April 2024.

April 2024 – [Home Office website](#)

Restraint and confiscation

Pension regulator's investigation leads to confiscation of assets

Two individuals convicted of fraud, Alan Barratt and Susan Dalton, have been ordered to hand over most of their remaining assets following a POCA investigation by The Pensions Regulator (TPR). The confiscation orders, issued at Southwark Crown Court, required the pair to pay £9,771 and £25,010, respectively.

The confiscated funds will be returned to the affected pension schemes, now managed by Dalriada Trustees Limited, an independent trustee overseeing the recovery process for the victims. This step also moves the schemes closer to being able to claim from the Fraud Compensation Fund.

Mr Barratt and Ms Dalton were sentenced to prison terms in April 2022 for their roles in a criminal enterprise that deceived over 200 savers into transferring their pension funds into fraudulent schemes. Should either of the individuals fail to pay the ordered sums, they risk additional jail time and will remain liable for the amounts, including interest.

January 2024 – [TPR press release](#)



£3.5m confiscation order issued after 'cash in suitcases' conviction

In an update to a case we covered in Edition 2 of this newsletter, Abdullah Alfalasi, the ringleader of a major money laundering network, has been made subject to a confiscation order totalling £3.5 million following an NCA investigation.

Mr Alfalasi, a 48-year-old Emirati national, was previously convicted for orchestrating the smuggling of £104 million from the UK to the United Arab Emirates between November 2019 and October 2020. His network involved 16 couriers who transported large sums of cash, believed to be drug profits, in vacuum-packed bundles using business class flights to maximise luggage capacity. Mr Alfalasi himself made several trips between Dubai and the UK during this period. He was arrested in December 2021 and sentenced to nine years in prison in July 2022 after pleading guilty to money laundering charges.

The confiscation order, imposed by Isleworth Crown Court on 19 March 2024, requires Mr Alfalasi to pay the specified sum within three months or face an additional 10 years in prison, with the debt still owed regardless of extended jail time.

The confiscated assets include bank savings, properties in the UAE, cryptocurrency holdings, luxury vehicles, and high-end watches.

March 2024 – [NCA press release](#)

Cases: Court of Appeal delivers significant judgments relating to confiscation

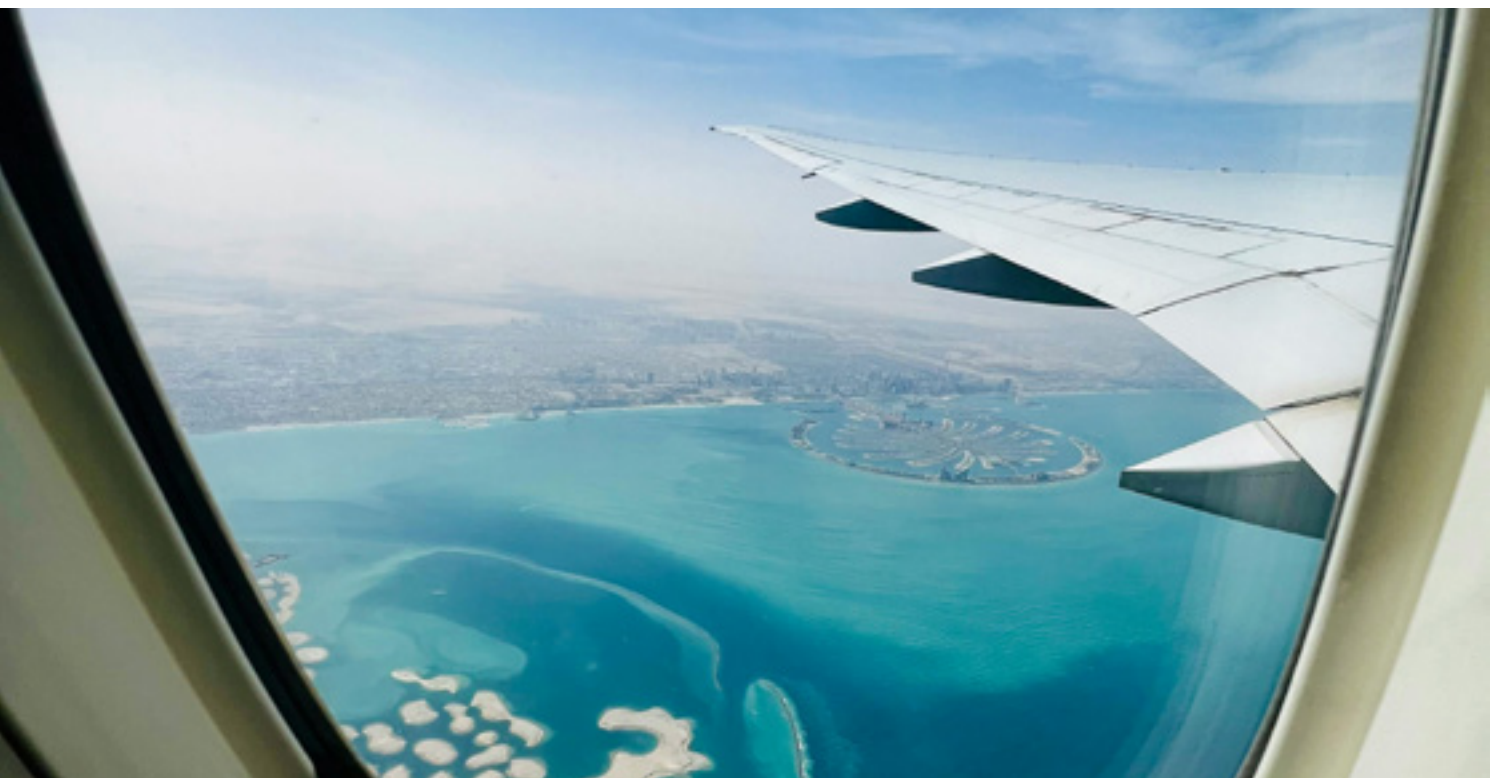
In the linked appeals of Haden and others [2024] EWCA Crim 344 and Luxton [2024] EWCA Crim 340, the Court of Appeal delivered significant rulings regarding confiscation proceedings under POCA, and related issues.

In Haden, the Crown appealed against decisions refusing to extend the confiscation timetable under section 14(2) of POCA in four cases. The Court clarified that POCA imposes a duty on the court to act, reinforcing the principle that crime should not be profitable. This decision underscores the importance of prioritising confiscation proceedings amid the substantial current backlog of live criminal cases.

In Luxton, the appeal dealt with the application of the 'slip rule' under section 385 of the Sentencing Act 2020, in conjunction with POCA. The case revealed procedural issues where the court should have proceeded with confiscation but was instead prompted to withdraw proceedings due to outdated legal advice. The Court of Appeal set aside the original decision, criticising prosecuting counsel for relying on superseded case law and emphasising the need for the judge's better understanding of current legal authorities.

The two rulings emphasise the complexity of confiscation law and the need for ongoing legal training and professional development in this area.

April 2024 – [Haden judgment on BAILII](#) / [Luxton judgment on BAILII](#)



In other news

News: Corporate criminal liability reforms edge forward

In our last edition, we noted that ECCTA had received Royal Assent on 26 October 2023, but guidance was awaited in relation to the new criminal offence of failing to prevent an associated person from committing fraud under section 199 (applicable only to a 'large organisation'). That guidance was delayed due to the 4 July General Election, and is now expected to be published in the autumn. There will then be a six-month implementation period, meaning the offence should be in force by April 2025. SFO Director Nick Ephgrave has previously stated that he intends to make use of the new offence.

Section 196 of ECCTA broadened and codified the doctrine of corporate criminal liability, in relation only to economic crimes committed by a 'senior manager'. However, wider reform of the doctrine such that it would apply to all criminal offences did not come to pass due to the failure of the Criminal Justice Bill 2023/24. At the time of writing, no suitable legislation has been tabled which could bring about this further change to the law.

August 2024

To find out more on the topic of fraud, white collar and financial crime, [click here](#)

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