



OECD International Academy for Tax Crime Investigation

Asset Recovery: Freezing and Seizing Assets



MANAGING FINANCIAL INVESTIGATIONS

NOVEMBER 2021 – DAY 2

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Summary of Day 1

- Adoption of Investigation
- Appointment of Financial Investigator
- Key Milestones in Investigation
- The Financial Strategy
- Decision Making – recording decisions
- Types of Financial Investigation



Case Study

- Use of Powers and Orders
- Money Laundering Investigation
- Cash Seizures as part of an investigation
- Restraint
- Confiscation
- Alternative Recovery Strategies – Criminal v Civil
- Management Data



Op Airline - Background

- The suspect is Banned from holding a company directorship for 7 years
- Despite this he became director of COMPANY A
- Company A was VAT registered since August 2012
- VAT Repayments every return since registration
- Company moved to submitting monthly returns in Aug 2013
- Each VAT Return received was for a repayment of VAT of approximately £275,000.
- Between June 2013 and February 2015 approximately £5.28 million claimed in VAT repayments, of which, approximately £550,000 was withheld by HMRC, following a Pre-Cred Visit.



Op Airline - Adoption

- The case was referred to HMRC Criminal Investigation
- The case is Adopted for Criminal Investigation
- Case team goal is a charging decision = KPI
- Allocation of a FI
- Appointment of an FI to Investigation



Investigation Strategy

The purpose of an investigative strategy is to:

- identify the most appropriate line(s) of enquiry to pursue
- determine the objective of pursuing particular lines of enquiry
- identify the investigative action(s) necessary to efficiently achieve the objectives, taking into account resources, priorities (timings), necessity and proportionality
- direct and conduct investigative actions to gather the maximum amount of material which may generate further lines of enquiry



Investigation Strategy - **Identifying actions**

- Investigators should use their knowledge and experience to decide which investigative actions are the most appropriate in the circumstances.
- Investigators should also be aware of the legal and ethical considerations relating to the conduct of any investigative action.
- Investigators must prioritise and determine the proportionality of the investigative process in accordance with agency policies.
- The final decision about which investigative actions to undertake must be driven by the investigation itself and not just by completing a checklist.



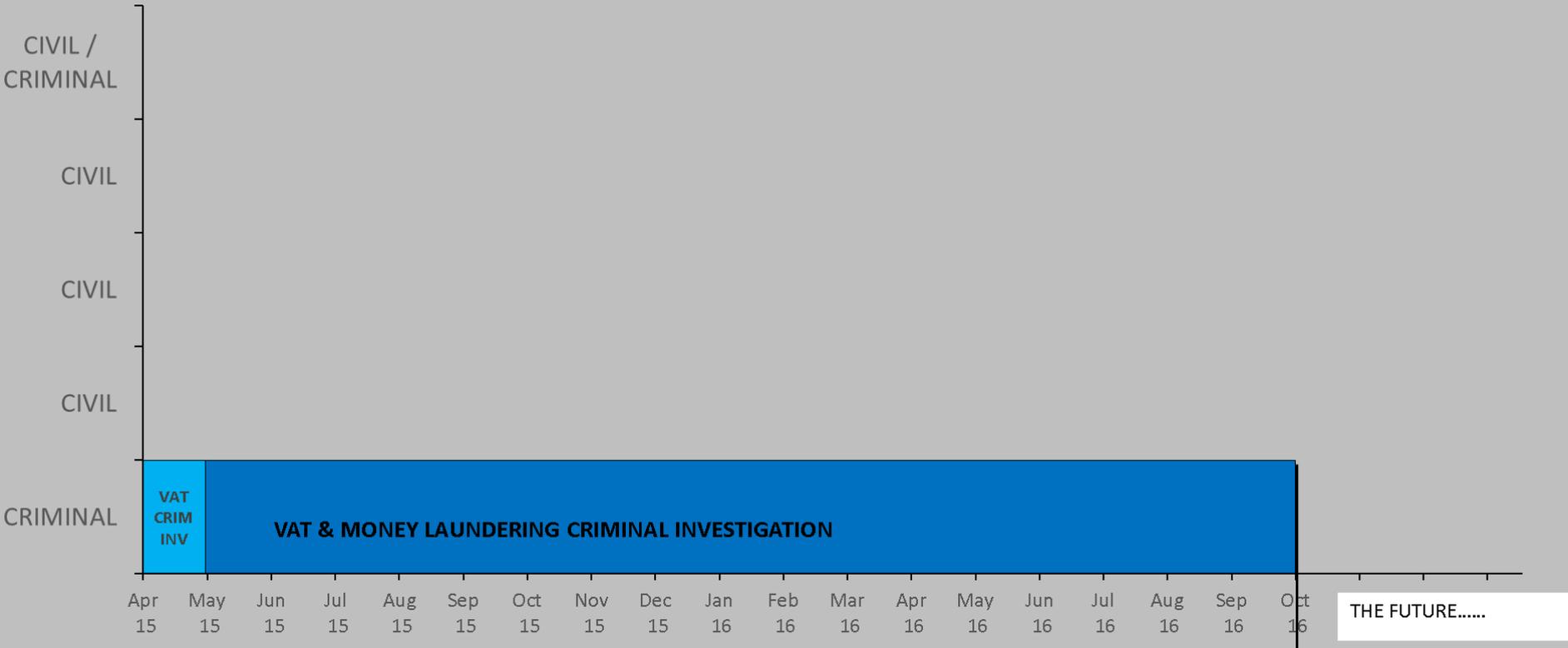
Op Airline the Investigation

- The case team established the M/O for the VAT fraud, and evidentially verified that the purchase invoices were false (used to reclaim VAT – exports were zero rated).
- PACE (evidence) Production Orders sought for the bank accounts of the company and its Director.
- Banking Material from Production Order shows evidence of M/L and possible M/L by the suspect's Wife.
- Additionally it reveals that a large amount of funds are still in the accounts of the company.



How does our Strategy adapt – what decisions do we need to record?

- We now have evidence of Money Laundering Offences committed by the suspect
- Banking Material from Production Order shows evidence of possible M/L by suspect's Wife.
- Additionally the material reveals that a large amount of funds are still in the accounts of the company
- What is your strategy are there any decisions to record?



09/04/15
Adopted by CI

05/05/15 Prod Order on Suspects Accounts.
Material suggests ML and possible ML by
Target's Wife

27/05/15 AMO's Placed on
accounts of Suspect until
24/08



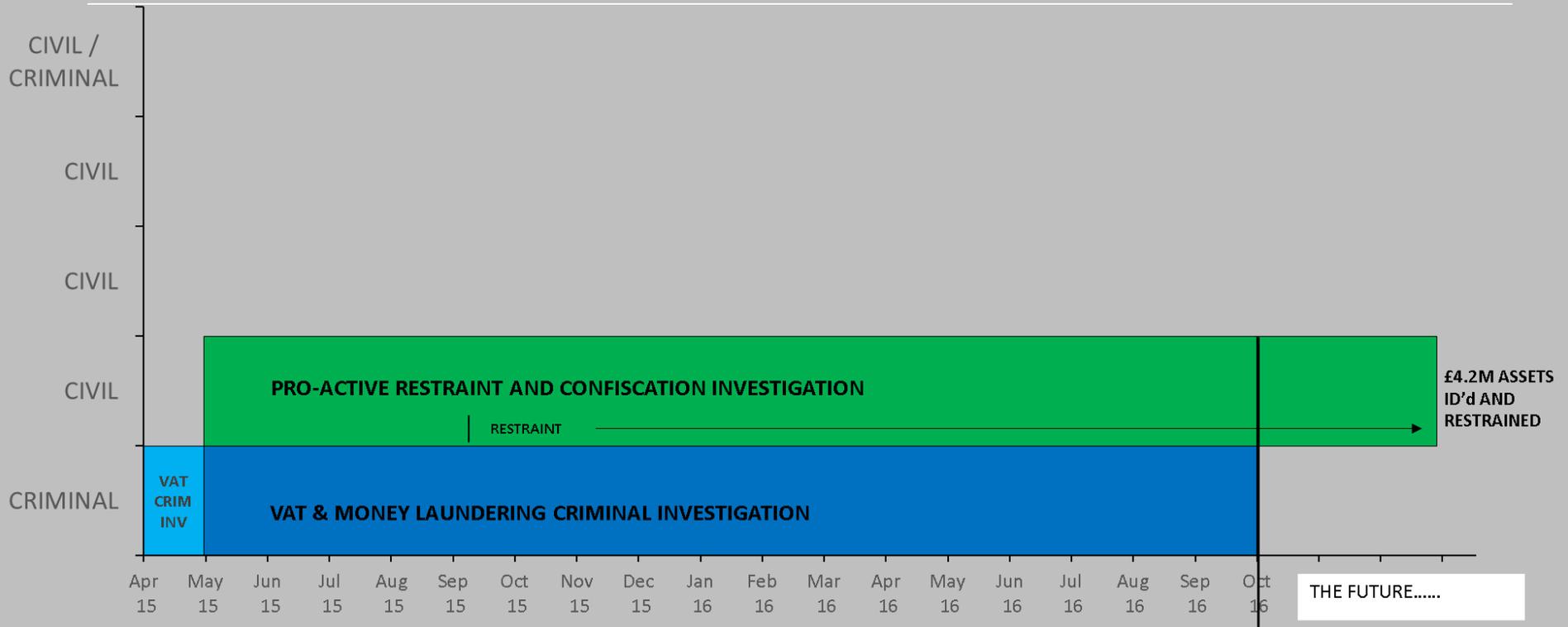
Investigation Continued

- Pro-active POCA Confiscation Investigation is started running in parallel to the Criminal Investigation
- Intelligence Research also showed that the suspect has a large amount of high value assets including properties and luxury cars.
- S370 POCA Account Monitoring Orders (AMO) are placed on the bank accounts of the Company and the Target.
- On 02/06/15 the AMO shows £750,000 being transferred from company account to suspects bank account.
- Search Warrants are obtained for the business premises and home address of the suspect



How does our Strategy adapt – what decisions do we need to record?

- We have identified that the suspect has a large amount of high value assets including properties and luxury cars.
- We have identified £750,000 being transferred from company account to suspect's own bank account
- How will your strategy evolve – what is/are your decision(s) and why?



02/06/15 – AMO Shows 750k Moves From Bus Account to Targets Acc.

04/06/15 KNOCK, Target Arrested. H/A and B/A searched. CASH SEIZURE – 33K seized at H/A

2/06/15 to 01/09/15 DISSIPATION OF ASSETS BY TARGET- Shown on AMO

21/07/15 Prod Order on Wife's Acc



Arrests and Searches

- Case Knocked (HMRC expression) on 04/06/15,
- Suspect arrested for suspicion of VAT Fraud and Money Laundering.
- Home Address Searched under S8 PACE Search Warrant.
- Business Address Searched under S8 PACE Search Warrant.
- Cash found at Home Address.



As a result of the search

- High Value Assets were identified and photographed at the home address, including high value watches.
- Several significant items seized as evidence during the search of the business address including more false invoices and other false loan and sales documentation.
- Significant items seized as evidence during the search of the home address included a loan agreement for PO Box in Dubai, banned director documentation and documentation for an overseas property in Spain



The Knock





High Value Watches

- During the search high value items were photographed,





Shares / Financial Instruments & High Value Items

- Usually bought / sold through brokers
- Brokers are regulated?
- Payments and transfers to brokers may be identifiable
- Often unique or manufactured in small production runs
- Unique manufacturers limited distributors or purchased at auction
- Ownership may be registered with manufacturer



Tracing Assets - Insurance

Most high value items are insured.

To insure something you have to have an insurable interest

Car insurers are may be identifiable via Police databases

Credit agencies can identify searches by insurance companies as well as Hire Purchase agreements, mortgages and loans

HPI can identify outstanding HP agreements

Analysis of bank statements can identify other insurers



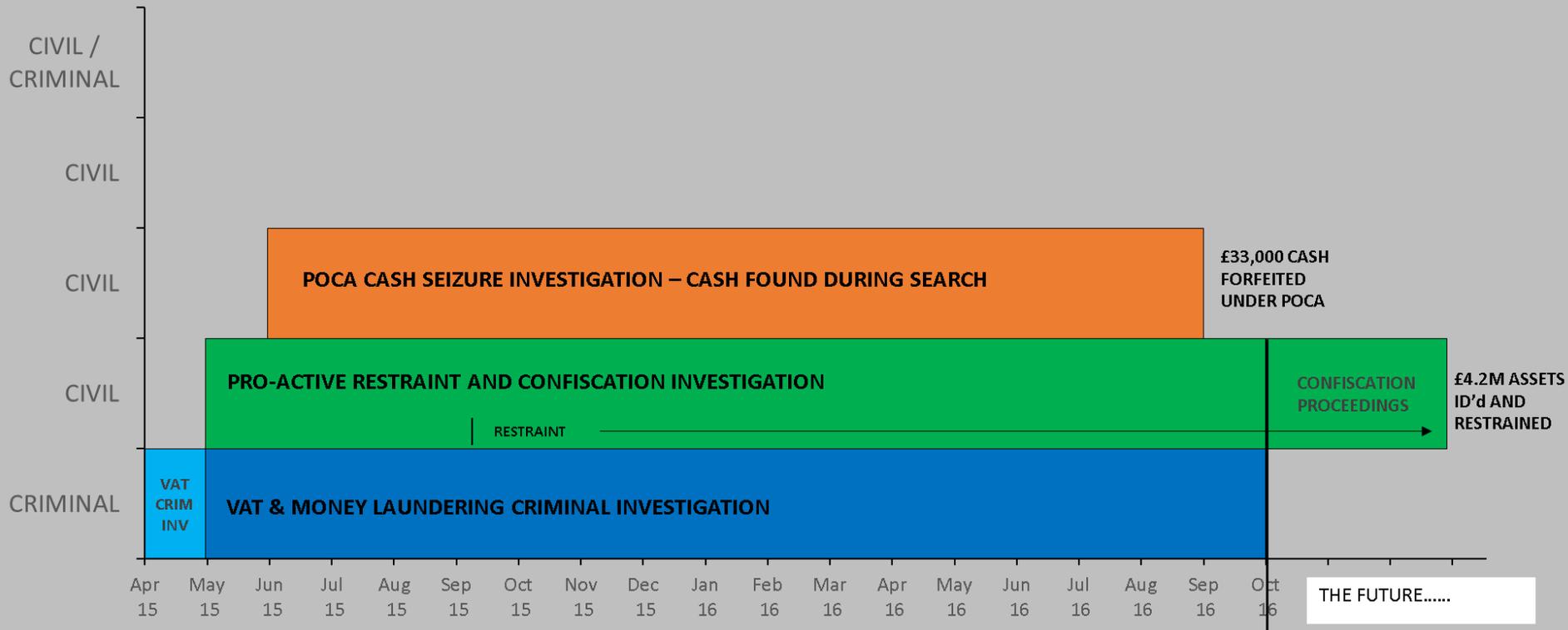
Cash Found during the Search





How does our Strategy adapt – what decisions do we need to record?

- The suspect now knows he is under investigation
- The risk of Asset Dissipation is more acute
- Timing of restraint – pre or post charge
- What are our priorities



04/06/15 KNOCK, Suspect. H/A and B/A searched. CASH SEIZURE – 33K seized at H/A

18/08/15 Wife and Employee interviewed in relation to M/L and Fraud.

1/9/15 – RESTRAINT order granted to restrain Suspect and his Wife's assets, DISCLOSURE ORDER on Suspect.



Investigation

- Invoices seized during search were verified as false.
- S345 POCA Production Orders were sought for bank accounts of suspect's wife
- Documentation seized during search was examined, along with banking material, and the various Modus Operandi for Money Laundering established.
- Banking Documentation for the suspect's wife was examined, and further evidence of Money Laundering discovered.



Further Investigation

- Wife and Employee (Brother in law) interviewed in August 2015 in relation to Money Laundering and the VAT Fraud.
- Between June and August 2015, the AMO shows that suspect is “Dissipating Assets”, in particular he is withdrawing large sums of cash from his accounts.
- The FI consults our CPS lawyer and we agree to apply for POCA Restraint Order to preserve assets for confiscation.
- 01/09/15 a S41 POCA Restraint Order is granted and the bank accounts of suspect and his wife and the company are “Frozen”.



Family members and Enablers

- Criminal Property is often held by close family members.
- Particularly marital or civil partners, parents, children or extended families.
- May also be held by close criminal associates.
- Frequently solicitors, estate agents, investment managers will manage criminal property on behalf of the criminal.
- You can use criminal powers, to investigate **any of these people** and seize or restrain criminal property **whoever** is holding it.



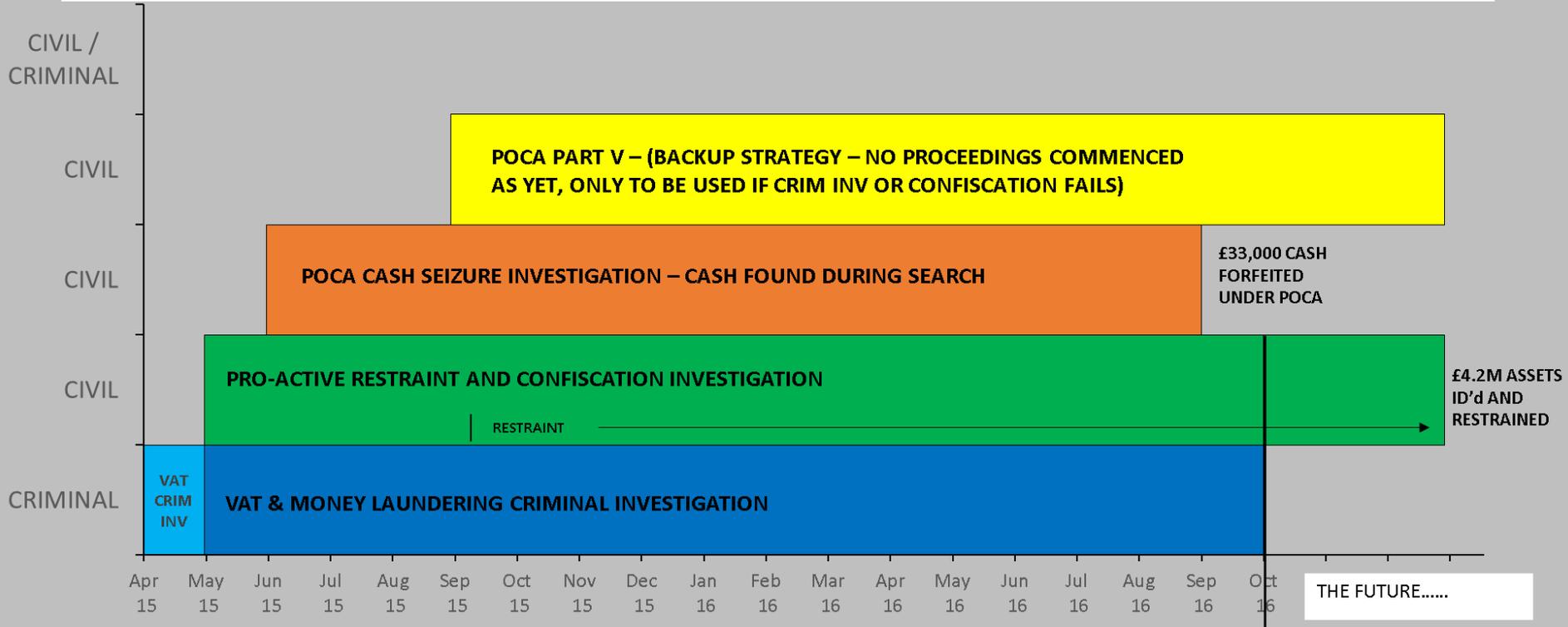
Ill Health and Suicide Attempt – the Financial Strategy Adapts

- The case team become aware that the suspect has cancer but do not know how serious this is
- In addition following his release from prison the suspect “goes missing” and when found it is possible he has self harmed or possibly attempted suicide



Alternative Recovery - Plan B Civil Part V Wide Stakeholder Engagement Essential

- Guidance sought from CPS Proceeds of Crime Unit (POCU) lawyer regarding viability of POCA Part V recovery if case fails due to potential health issues of Defendant
- Colleagues briefed with regard to the background of the case, and potential health issues of Defendant.
- Identify which assets potentially recoverable under Part V.
- POCA Part V report drafted jointly between the Case Officer, FI and the POCA Part V Case Officer, for submission in the event prosecution or confiscation failed due to Defendant's health.
- CPS POCU lawyers briefed of "backup strategy" and made arrangements to facilitate its implementation.



09/10/15
Suspect
CHARGED

9/11/15 to 22/07/16 – Two adjournments
at Mags, and Six at Crown C due to
suspect's ill health

11/03/16 CPS
Decide not to
charge Suspect's
wife

23/3/16
RESTRANT
Varied



Money Laundering Typologies

- Direct Transfers of fraud funds from Business Accounts to Personal Accounts
- Inter-account transfers “Layering” between Personal/Saving Accounts.
- False purchase invoices/documentation used to conceal payments for property.
- Foreign and UK Property Acquisition
- Acquisition of High Value Vehicles
- Acquisition of Gold and Jewellery
- Concealment of funds in bank accounts of dependants
- Expenditure on Luxury Goods
- High Volume Cash Withdrawals

UK

SPAIN

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VAT Fraud (275K P/M) conducted by Mr W Fraudulent VAT Repayments made to Mr W's Company



Mr and Mrs W Make arrangement to buy Spanish Property

Using funds from

Mr W Company Account

Mr W Transfers £365,000 to

Spanish Legal Company Account

Money used to purchase

Spanish Property Acquired in name of Mr and Mrs W

Spanish Legal Company Account

Property Sold

Mrs W Personal Account

Transfers £294,000 to

Mrs W Personal Saving Account

Spanish Co Transfers £294,000 to

VAT Fraud (275K P/M)
conducted by Mr W
Fraudulent VAT
Repayments made to
Mr W's Company

All
Repayments
go to Co
Account

Mr W
Company
Account

Regular
Transfers
to

Mrs W
Personal
Account

4 x Transfers on
same day to Car
Dealer total:
£51,080

£30,080

£1,000

High
Value
Car
Dealer

Top of
Range 4x4
acquired
in name
of Mrs W

Additional Funds for vehicle purchase
£10,000

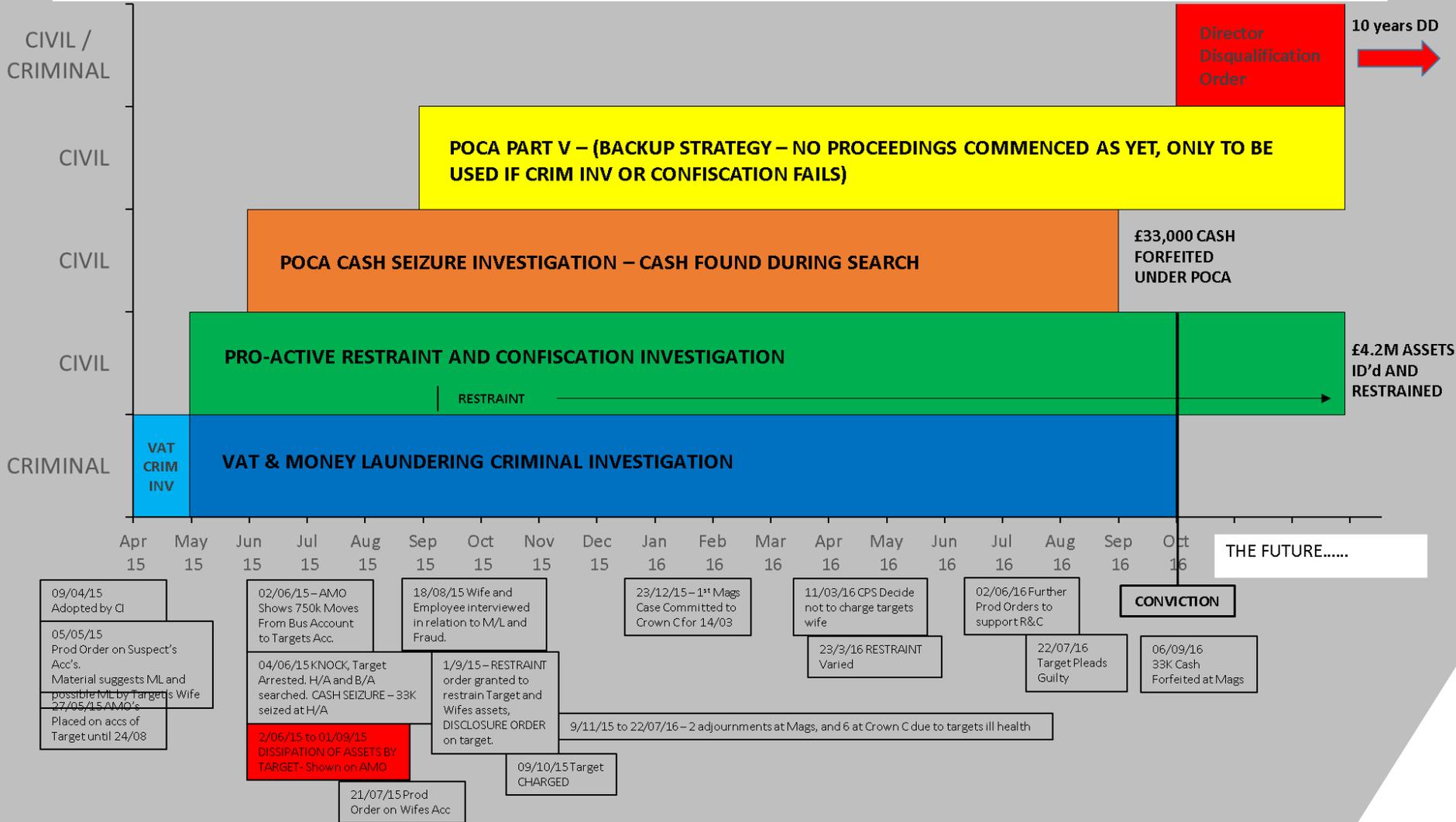
Additional Funds for vehicle purchase
£10,000

Money used
for purchase
of



The Restraint

- Early engagement with CPS lawyer was crucial in this case.
- The CPS POCU provided case team with advice/direction on evidence needed to successfully seek restraint.
- The evidence of “Dissipation” was essential in gaining the Restraint Order
- The AMO was key to demonstrating the Dissipation of Assets.
- The Restraint Order in this case preserved assets (Criminal Property) including cars, houses and funds in bank accounts, with an approximate value of £4,200,000.
- The Restraint Order was instrumental in ensuring that this “Criminal Property” was available to be considered during Confiscation as part of the “Available Amount”.



Classification: OFFICIAL



Alternative Recovery - Plan C -Civil Assessments Wide Stakeholder Engagement Essential

PLAN C - Civil Assessments

Civil VAT Assessment's were raised against the Company by HMRC colleagues but NOT enforced.



Confiscation Investigation

- Confiscation Investigation run proactively throughout case.
- Continual liaison throughout the investigation with CPS POCU.
- Evidence found during Money Laundering Investigation greatly assisted the confiscation investigation.
- Analysis of banking material was used to rebut many claims made by the Defendant.
- All of the tangible assets identified as forming part of the “Available amount” were preserved by Restraint Order.
- During the confiscation investigation, the Defendant, upon agreement with the CPS, sold the main property under Restraint and paid the funds (approx. £1.2m) into his restrained bank account.



As a Result.....

- **The Confiscation Order**
- **Benefit: £5,053,541.85**
- **Available amount: £3,354,173.68 to be paid within 3 months**
- **Default Sentence: 8 years imprisonment, consecutive to his existing sentence**

- **Compliance Intervention**

£530,932 of VAT repayments withheld by Local Compliance.

- **POCA Cash Seizure**

£33,000 in cash was seized on the day of the “knock” under POCA, and is now forfeited.



Management Information

Senior managers should ensure that there are internal systems and processes to measure performance. It may be useful to systematically collect and collate the following data:

- number of charges for money laundering
- number of recorded crimes for money laundering
- ratio of acquisitive crime arrests to confiscations
- volume and value of cash forfeiture orders
- volume and value of confiscation orders
- volume and value of cash seizures made
- volume and value of restraint orders imposed



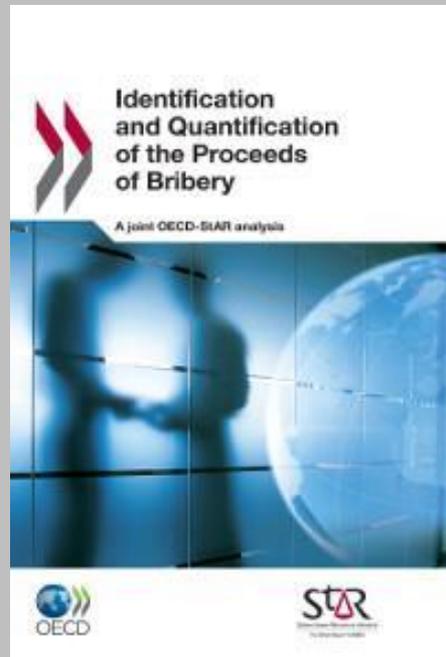
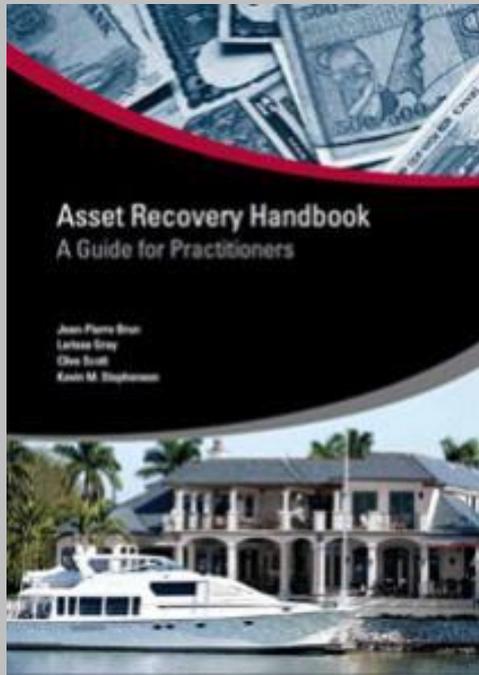
Management Information

These may be of secondary importance:

- number of 5x5x5 intelligence logs submitted in respect of financial intelligence
- the number of suspicious activity reports (SARs) received
- the number of intelligence packages initiated from those SARs
- the number of SARs developed and transferred to a financial and/or criminal investigation
- the number of non-financial investigations supported by financial investigation.



Resources





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ANY QUESTIONS?

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