



OECD International Academy for Tax Crime Investigation

Asset Recovery: Freezing and Seizing Assets



ASSET MANAGEMENT – PRESERVATION AND ENFORCEMENT

International Asset Recovery

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What is Asset Management?

- Measures to prevent the dissipation or devaluation of assets under a freezing order ('preservation stage')
- Measures to realise the assets for payment of the confiscation order, debt or compensation ('enforcement stage')
- Monitoring and measurement of the progress and results of asset recovery ('case management')





Asset Management – Preservation



Asset Management: Preservation

Deterrent effect created by penalties for non-compliance, again dependant upon legal tradition in the jurisdiction:

- Law creates a specific offence or punishment as a contempt/breach of court order
- Usually punishable by imprisonment against defendant or interested party who assists or permits a breach by the defendant.





Breakout

You have successfully frozen Mr Blue's assets, they include:



What could you do to ensure compliance with the freezing order?



Asset Management: Preservation

Types of measures to ensure compliance include:

- Cooperation from financial institutions
- Registration of notice on property title
- Power to seize assets
- Registration against company shareholding
- Using powers to enforce compliance such as specific offences or contempt where it is appropriate
- Restricting the terms of agreements relating to living and legal expenses
- Receivers or curators



Asset Management – Enforcement



Asset Management: Enforcement

Common measures to ensure compliance may include:

- Imprisonment in default of payment
- Freezing orders and receiverships
- Seizure of assets
- Restrictions on property
- Compliance orders
- Payment orders against third parties
- Orders for sale of property
- Receiverships/curators
- Enforcement in other jurisdictions





Asset Management – Case Management



Asset Management: Case Management

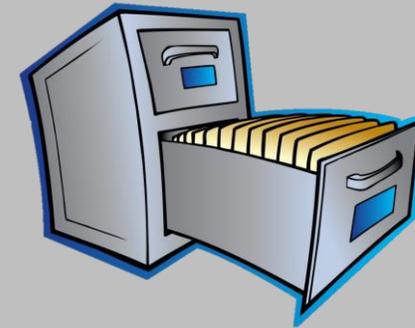
- What agencies or governance structures are required for effective asset management?
- How do you track case progress?
- How do you measure effectiveness?
- How are recovered funds administered?



Case Management: Case Tracking

- Centralised recording of evidence and progress

- System of reviews and quality assurance



- Coordinating action between teams and/or agencies



Asset Management: Measuring Effectiveness

“Countries should maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of their AML/CFT systems. This should include statistics on the STRs received and disseminated; on money laundering and terrorist financing investigations, prosecutions and convictions; on property frozen, seized and confiscated; and on mutual legal assistance or other international requests for cooperation.”

Financial Action Task Force, Recommendation 33



Asset Management: How to measure effectiveness

- Use of specialised computer system
- Local data collation with regular centralised amalgamation of data

Considerations:

- Resources
- Data Assurance
- Transmission and Timing
- Sensitive information





Asset Management: Use of Recovered Assets

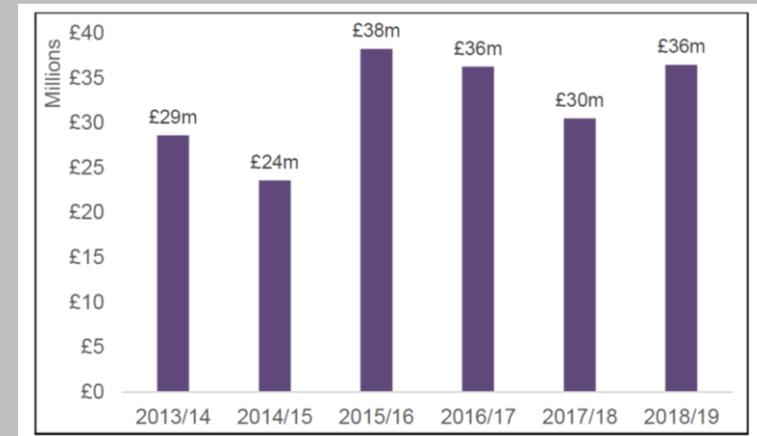
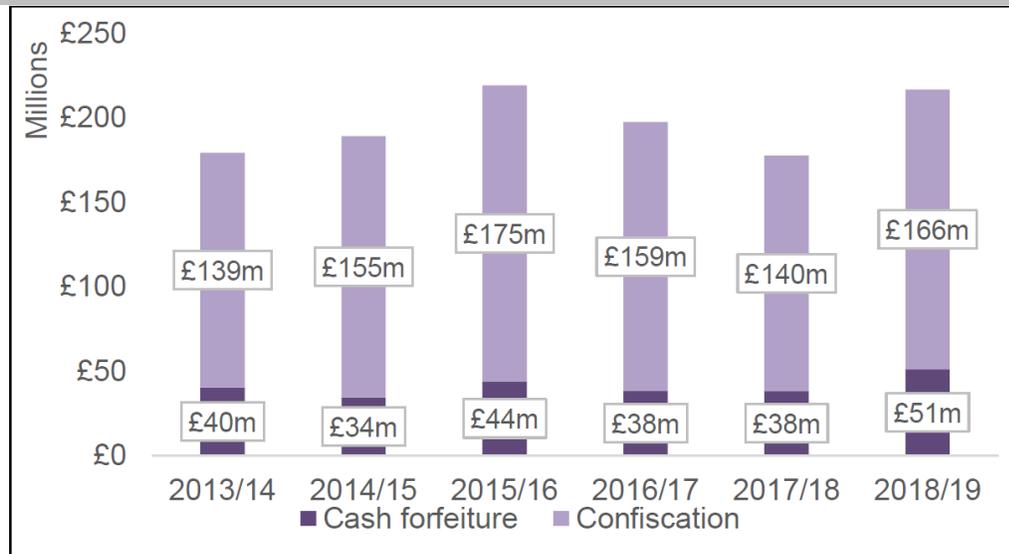
Payment to a Central Fund or to the Treasury?

Central Fund	Treasury
Ring fence funds to crime prevention and detection	Wider distribution to projects that require urgent funding
Political motivation – one step removed	Political motivation
Motivated by recovery	No direct connection between recovery and spending
Recognition and tangible result directly linked to recovery	Lack of recognition



Asset Management: Use of Recovered Assets

UK Example Central Fund



Year	Asset Recovery Work	Crime Reduction Projects	Community Projects	Miscellaneous	Total
2012/13	£44.5m	£2.1m	£1.4m	n/a	£47.9m
2013/14	£71.8m	£4.3m	£1.8m	£2.0m	£79.8m
2014/15	£70.4m	£6.3m	£1.9m	£4.5m	£83.0m
2015/16	£72.9m	£3.0m	£1.5m	£5.5m	£83.0m
2016/17	£56.0m	£2.0m	£1.5m	£0.1m	£59.6m



Breakout

Potential models for asset management include:

- An independent asset management agency
- A joint asset management and recovery agency
- A prosecuting authority with responsibility for asset management

What are the potential pros and cons of having an asset management agency separate to the prosecuting authority?



ANY QUESTIONS?



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