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|  |  |  | **Internal Audit** |  |
|  |  | **FINAL** |  |
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|  | **Police and Crime Commissioner for Cleveland**  **and Chief Constable of Cleveland Police** |  |  |  |
|  | **Assurance Review of Proceeds of Crime** |  |  |  |
|  | **2019/20** |  |  |  |
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| **Executive Summary** |

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| **OVERALL ASSURANCE ASSESSMENT** |  | **OVERALL CONCLUSION** |
|  |  | |  |  | | --- | --- | | **The process for managing Proceeds of Crime reserves was found to be well managed by the Finance Business Partner at Sopra Steria.** | | |  | **Governance arrangements for Proceeds of Crime monies was well established, although the annual return to the Home Office had not been progressed by the Home Office.** | |  | **The Officers responsible for POCA arrangements have been in post for some time and are experienced in the procedures for dealing with seized cash.** | |
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| **SCOPE** |  | **ACTION POINTS** |
| The review appraised the effectiveness of controls for managing the proceeds of crime and in particular the arrangements for securing and monitoring of the proceeds of crime which is held by the Force.  The audit focused on the following key areas:   * Governance arrangements are in place to provide management with required levels of assurance; * Training and guidance is provided to staff; * Controls exist to ensure confiscated assets are appropriately held and managed.   The audit scope did not include visits to stations as these maybe undertaken as part of a separate audit. |  | |  |  |  |  | | --- | --- | --- | --- | | **Urgent** | **Important** | **Routine** | **Operational** | | **0** | **0** | **0** | **0** | |

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| **Management Action Plan - Priority 1, 2 and 3 Recommendations** |

| **Rec.** | **Risk Area** | **Finding** | **Recommendation** | **Priority** | **Management**  **Comments** | **Implementation**  **Timetable**  **(dd/mm/yy)** | **Responsible**  **Officer**  **(Job Title)** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No recommendations were made. | | | | | | | |

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| **Operational Effectiveness Matters** |

| **Ref** | **Risk Area** | **Item** | **Management**  **Comments** |
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| No Operational Effectiveness Matters were identified. | | | |

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| **Detailed Findings** |

**Introduction**

1. This review was carried out in October 2019 as part of the planned internal audit work for 2019/20. Based on the work carried out an overall assessment of the overall adequacy of the arrangements to mitigate the key control risk areas is provided in the Executive Summary.

**Background**

1. Proceeds of Crime (under the Proceeds of Crime Act 2002) enables the Police and Crime Commissioners to benefit by up to 50% of the forfeited amount. The act gives power to the police and other public bodies to confiscate assets and cash from individuals who are convicted of offences or on the balance of probability have benefited from their illegal activity. The Home Office operates the Asset Recovery Incentivisation Scheme (ARIS) and for cash forfeitures the Force receive 50% and the Home Office 50% of the assets recovered. For confiscation orders these are shared as follows: Home office 50%: Investigation 18.75%: Prosecution 18.75%: and Enforcement 12.5%.
2. For 2018/19 Ministers agreed that a continuation of the scheme to top slice up to £7.5 million of recovered assets for investment in key national capabilities which should benefit the entire asset recovery community. The £7.5m represents a top slice of some 2% before sums are paid over the Forces. Use of Incentive Payments: The Home Office recommends that Incentive Payments are used to further drive up performance on asset recovery and, where appropriate, to fund local crime fighting priorities for the benefit of the community.

**Materiality**

1. The total incentive payments received for the year 2018/19 was £177,200.96.

**Key Findings & Action Points**

1. The key control and operational practice findings that need to be addressed in order to strengthen the control environment are set out in the Management and Operational Effectiveness Action Plans. Recommendations for improvements should be assessed for their full impact before they are implemented.

**Scope and Limitations of the Review**

1. The review appraised the effectiveness of controls for managing the proceeds of crime and in particular the arrangements for securing and monitoring of the proceeds of crime which is held by the Force. The audit focused on the following key areas:
   * Governance arrangements are in place to provide management with required levels of assurance;
   * Training and guidance is provided to staff;
   * Controls exist to ensure confiscated assets are appropriately held and managed.

The audit scope did not include visits to stations as these maybe undertaken as part of a separate audit.

1. The definition of the type of review, the limitations and the responsibilities of management in regard to this review are set out in the Annual Plan.

**Disclaimer**

1. The matters raised in this report are only those that came to the attention of the auditor during the course of the internal audit review and are not necessarily a comprehensive statement of all the weaknesses that exist or all the improvements that might be made. This report has been prepared solely for management's use and must not be recited or referred to in whole or in part to third parties without our prior written consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose. TIAA neither owes nor accepts any duty of care to any other party who may receive this report and specifically disclaims any liability for loss, damage or expense of whatsoever nature, which is caused by their reliance on our report.

**Risk Area Assurance Assessments**

1. The definitions of the assurance assessments are:

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| **Substantial Assurance** | There is a robust system of internal controls operating effectively to ensure that risks are managed and process objectives achieved. |
| **Reasonable Assurance** | The system of internal controls is generally adequate and operating effectively but some improvements are required to ensure that risks are managed and process objectives achieved. |
| **Limited Assurance** | The system of internal controls is generally inadequate or not operating effectively and significant improvements are required to ensure that risks are managed and process objectives achieved. |
| **No Assurance** | There is a fundamental breakdown or absence of core internal controls requiring immediate action. |

**Acknowledgement**

1. We would like to thank staff for their co-operation and assistance during the course of our work.

**Release of Report**

1. The table below sets out the history of this report.

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| **Date draft report issued:** | 2nd December 2019 |  |
| **Date management responses received:** | 5th December 2019 |  |
| **Date final report issued:** | 6th December 2019 |  |

1. The following matters were identified in reviewing the Key Risk Control Objective:

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| **Directed Risk: Failure to direct the process through approved policy & procedures.** |

**Policy and Procedures**

* 1. Relevant policies and procedures exist on the Force's intranet and are available for all staff/Officers with access to view. These documents include:
     + Procedure for the Recovery of Seized Cash (S.19 PACE 1984 & S.294 POCA 2002);
     + Proceeds of Crime, Frequently Asked Questions - Flowchart;
     + Confiscation; and
     + Cash Seizure.

These documents are clear and were deemed to provide adequate information for dealing with the Proceeds of Crime.

**Accounting Procedure**

* 1. The Finance Business Partner at Sopra Steria manages the accounting process for all Proceeds of Crime assets. Police Officers are the front line staff who would identify when POCA money is due. For example, POCA cash seizure money is banked by Economic Crime Unit (ECU) officers once it has been counted on video, into a POCA high interest account. Other cash (usually PACE) is banked by the Central Cash Team into a Sopra Steria account. Then at the appropriate time (once confirmation is obtained that the money could be treated as confiscated) the relevant management accountant transfers funds to the Home Office account. The Home Office then record the details of the transaction and in time Cleveland Police would be entitled to receive 50% of the proceeds, which is paid quarterly in arrears by the Home Office. The Home Office send the spreadsheet detailing the POCA allocation to the Inspector in ECU, and the Finance Business Partner receives a copy which is used to note the expected funding. When the funds are received the Finance Team post the income to the ledger which the Finance Business Partner checks to ensure that this matches the allocation that has been advised on the Home Office spreadsheet.

**Award of POCA Funds**

* 1. A review of the process for awarding funds was undertaken. A formal request for funds to be used from the POCA reserves was made by the Community Drug Enforcement Team. Following success against organised criminal gangs, further work was requested to progress a number of additional convictions. Although a large proportion of funding had come from the local authority, additional funding was sought, which it was felt would make a real difference to the communities living in the targeted area.
  2. Following supervisory approval the Finance Business Partner writes to the OPCC Chief Finance Office and Deputy Chief Executive to seek his approval to transfer funds from the POCA reserve account. The CFO and DCE will then approve this transfer of funds. The Finance Business Partner will now work with the appropriate accountant for the drug operation to monitor how funds have been spent. Should the funds approved not all be spent then a refund to the POCA reserve account would be required, although it is fair to say that POCA money is seen as a contribution to a much larger expenditure commitment.
  3. It was therefore confirmed that POCA funds were being used in accordance with Home Office guidance to further drive up performance on asset recovery and/or, where appropriate, to fund local crime fighting priorities for the benefit of the community.

**Home Office Return**

* 1. Annually the Home Office expect a return on the use of POCA money. The latest return is dated 2016/17 as the Home Office has not sent a return for completion after this period. The annual return requires the following information:
     + Details of how funds have been used;
     + For each project/initiative how much has been allocated;
     + How has this contributed to improving asset recovery, performance or tackling crime; and
     + What are the particular asset recovery outcomes.

The completion of this form and the signing off by the Chief Finance Officer provides good control and governance over the POCA funds.

* 1. It was confirmed that the Finance Business Partner has prepared the data for completion of the Home Office return once received for 2017/18 and 2018/19.

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| **Compliance Risk: Failure to comply with approved policy and procedure leads to potential losses.** |

**Training**

* 1. The current senior staff engaged in Proceeds of Crime have all been appropriately trained and have been dealing in POCA for a number of years. More junior staff are assigned to an experienced POCA officer for mentoring and, in addition, will be booked onto the national POCA training courses when these become available.

**Testing of Proceeds of Crime Income**

**Confiscation**

* 1. In July 2019, the suspect “D” was charged with an offence of Possession of Cannabis with Intent to Supply after the Police executed a search warrant at his home address, recovering cannabis to the estimated value of £460 and cash totalling £2,210.
  2. Economic Crime Unit (ECU) then received the daily email informing the Proceeds of Crime team of persons who had been charged / reported the previous day. The Detective Sergeant then carried out a review to identify any POCA opportunities. The case of “D” was identified of POCA significance and a Confiscation investigation was commenced.
  3. Whilst these enquiries are ongoing the OIC monitor the progress of the case through the court system all the way to first appearance at Crown Court.
  4. The person in question pleaded guilty on 29th July 2019 and on 4th November 2019 the Detective Sergeant attended the Crown Court for sentencing proceedings with a POCA statement and the relevant forms to obtain a Confiscation Order. An order was obtained, with a benefit figure of £2,670 and an available amount of £2,210. The person in question signed the consent for the recovered cash to be used to satisfy the order. The order was recorded on JARD (national recording system), and management accounts were notified to transfer the cash to HMCTS who enforce the orders.

**Cash Seizure**

* 1. In July 2018, Police Officers were on a mobile patrol in Hardwick, when they saw two scooters on Scurfield Road. These two scooters both made off from the officers, heading toward Tithe Barn Road. The Police Officers followed and at the roundabout of Tithe Barn Road and Scurfield Road, one of the riders lost control of their scooter which was seen lying in the road. The rider was detained and found to be the defendant.
  2. During the following searches Police Officers recovered an estimated £100 worth of cannabis and £3,581.94 in cash. The suspect was charged with a number of offences, including possession with intent to supply cannabis, and money laundering (possession of criminal property). Prior to his first appearance ECU were notified of the recovered cash. At Teesside Youth Court on 27th February 2019, the person in question signed a disclaimer in relation to the cash seized after an officer from ECU attended. He also pleaded guilty that day to all offences charged for which he received a Referral Order.
  3. At 9.00 am on 28th February 2019, £3,581.94 was seized under the provisions of the Proceeds of Crime Act 2002 (as per the case of R-v-Hickman) by the Detective Sergeant of Cleveland Police Economic Crime Unit. It was suspected that the cash was recoverable property and was seized under the provisions of Section 294 of the Proceeds of Crime Act 2002.
  4. On 8th March 2019 the cash was forfeited at Teesside Magistrates Court under POCA. The order was recorded on JARD, and management accounts were notified so they could transfer the cash to the Home Office.

**Release of POCA Reserves**

* 1. In July 2019 an Officer made a bid for funds from the POCA reserve account for the following:

“That consideration is given to purchasing new mobile devices for Field Intelligent Officers (FIOs) from POCA funding. This would enhance their ability to investigate crime and bring offenders to justice, which in turn would generate further opportunities to maximise POCA legislation. A specific example of this is the work the FIOs have undertaken in relation to serious and organised crime and organised crime groups who often significantly benefit financially from their criminality. The FIOs are critical in developing the intelligence picture to assist in disrupting, investigating and dismantling these groups.”

* 1. There are 15 FIOs within the structure and 6 Detective Sergeants. Each mobile device costs in the region of £250. Detective Sergeants are included in the bid as they are also deployed operationally with FIOs, however, the priority is the 15 FIOs in the structure.
  2. On the 31 July 2019 the Finance Business Partner made a request to the Chief Finance Officer and Deputy Chief Executive (OPCC) to approve the release of funds from the POCA account. Later, on the 31 July 2019 approval to commit funding for these mobile devises was forthcoming from the CFO & DCE (OPCC).

**Monitoring and Reporting**

* 1. The procedures for dealing with confiscated assets, particularly cash, are well established. Cash sums seized over £1,000 are treated as POCA and banked into the POCA bank account. Alternatively these sums may be seized under PACE until such time as the treatment of the seized money is known. Smaller cash sums seized will be treated as seized cash and held in accordance with the seized cash procedures.
  2. The appropriate Officer at the Force maintains a spreadsheet of all POCA seized assets. Each week details of POCA seized cash are reported to the Inspector in Charge.

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