1.0 Summary of Changes

1.1 Due to its regular review process, this policy was updated on 15 January 2018. The only amendment was made within section 4.3 - updating the EIA protected characteristics.

2.0 What this Policy is About

2.1 This policy explains how Essex Police and Kent Police will approach Financial Investigation. This document is primarily aimed at police officers and police staff who have been accredited by the National Crime Agency (NCA) as Financial Investigators.

2.2 Essex Police and Kent Police recognise that the investigation of fraud and the utilisation of the powers given within the Proceeds of Crime Act (POCA) can make a significant contribution to the disruption of criminal organisations and the investigation of offences. Both forces are therefore committed to maintaining a fraud, financial investigation and money laundering capability to tackle offenders at all levels of criminal activity.

2.3 Investigating the origins of seized cash and money laundering offences will often lead to confiscation investigations. Confiscation is not just for serious criminals but applies in every case of acquisitive crime.

2.4 Acquisitive crime describes offences where the perpetrator derives material gain from the crime. This encompasses crime types such as drug trafficking, burglary, robbery, theft, vehicle crime, fraud and counterfeiting.

2.5 Experience shows that large confiscation orders are generally obtained from fraud, drugs, and money laundering cases.

2.6 When a person has benefited from their crime, the Forces objectives are to secure a criminal conviction and, if possible, remove the benefit of that crime. A confiscation order made under POCA is an effective way of achieving this. The investigator should be aware of the opportunities for confiscation proceedings, which are normally undertaken by Financial Investigators, and any actions they can take to support the process.

2.7 All officers are reminded that failure to follow this policy in referring acquisitive crimes and drug trafficking offences to SECU (Serious Economic Crime Unit) will result in reducing the amount of assets seized and thereby reduces the deterrent aspect which is required to assist in reducing crime.

Compliance with this policy and any linked procedures is mandatory.
3.0 Statement of Policy

3.1 Essex Police and Kent Police will financially investigate all persons charged with a drug trafficking offence or an acquisitive crime with a view to making an application to a court for a confiscation order to be made to the value of the benefits derived from the crimes.

3.2 Essex Police and Kent Police will seek to use the provisions of the Proceeds of Crime Act 2002 and seize cash to the value of £1,000 and above if it is found whilst lawfully on premises, or whilst searching any person or vehicle. Police Financial Investigators will investigate the origins of any cash so seized with a view to requesting its forfeiture at the magistrates’ court.

3.3 The Misuse of Drugs Act 1971 (MoDA) and Power of Criminal Courts (Sentencing) Act 2000 (POCCA) gives the power to have property forfeited provided certain criteria has been met. Financial investigators are committed to applying for forfeiture under MoDA and POCCA; after confiscation under POCA has been considered.

3.4 Essex Police and Kent Police will continue to develop an effective working relationship with all prosecuting agencies, particularly the Crown Prosecution Service, to ensure effective use of POCA legislative tools.

3.5 The Counter Terrorism and Security Act (CTSA) 2015 places a duty on various specified authorities to have ‘due regard to the need to prevent people being drawn into terrorism’. This is referred to as a ‘Prevent Duty’ and involves:

- Responding to the ideological challenge of terrorism;
- Preventing people from being drawn into terrorism;
- Working with sectors and institutions where there are risks of radicalisation.

3.5.1 The CTSA 2015 also places a duty upon specified authorities in relation to supporting people vulnerable to being drawn into terrorism through the Channel programme. Channel is a multi-agency safeguarding programme, which provides support to those individuals who may be vulnerable to being drawn into any form of extremism that could lead to terrorist related activity.

3.5.2 This policy has been reviewed and assessed that the CTSA duties could be relevant and as such your attention is drawn to your responsibilities under the Act. Further details about the Prevent Duty and the Channel Duty can be found below.

- Learn more about the Prevent Duty.
- Learn more about the Channel Duty.
4.0 Implications of the Policy

4.1 Finance / Staffing / Training / Other

4.1.1 The full implementation of this policy involves a significant opportunity to have a proportion of the amounts confiscated under POCA returned to the Forces under the incentive scheme operated by the Home Office. All property forfeited under MoDA and POCCA is returned to Police. Property forfeited under MoDA and POCCA will be used by the Chief Constables as they see fit.

4.1.2 All Financial Investigators receive training from the Proceeds of Crime Centre of the NCA and must receive this training before being accredited. Financial investigation training should form part of the Force’s routine training and development programme for designated management, investigation and intelligence personnel. Basic financial investigation training will be aligned with NIM and Professionalising the Investigation Processes (PIP), and integrated into the:

- Initial Crime Investigators Development Programme (ICIDP);
- Initial Police Learning Development Programme (IPLDP);
- Force Trainee Investigator Programme;
- Force Senior Investigation Officer (SIO) development;
- Force intelligence officer and probationer training.

4.1.3 Managers do not necessarily require the level of training and awareness provided by financial investigation-specific courses. It is essential that LPA/Divisional Commanders have at least one senior member of their command team who is familiar with the procedures relating to financial investigation.

4.2 Risk Assessment(s)

4.2.1 This policy is compliant with the requirements of health and safety legislation and internal health and safety procedures. The risk assessment for Investigating Officers applies and will be reviewed annually.

4.3 Equality Impact Assessment

4.3.1 An Equality Impact Assessment has been carried out and shows the proposals in this policy would have no potential or actual differential impact on grounds of age, sex, disability, race, religion or belief, marriage and civil partnership, sexual orientation, gender reassignment and pregnancy and maternity.
5.0 Consultation

5.1 Consultation has taken place with key stakeholders, including:

- Head of SCD;
- Head of PSIT;
- Head of SCD-SECU;
- Health and Safety;
- Diversity Department;
- Policy Unit;
- Data Protection;
- Finance Department;
- IT Department;

6.0 Monitoring and Review

6.1 The Head of SCD-SECU will monitor the amounts confiscated and forfeited to ensure that it meets targets set by the Home Office.

6.2 The Head of SCD-SECU will maintain and ensure that all referrals under POCA are fully investigated and where appropriate confiscation or forfeiture of assets are applied for.

6.3 The Head of SCD-SECU will review this policy every two years and will consider any changes to legislation, legal challenges to Essex Police and Kent Police and any discrepancies raised with regard to the policy.

7.0 Related force policies or related procedures (Essex) / linked standard operating procedures (Kent)

- S 1151 Procedure/SOP – Proceeds of Crime - Confiscation
- S 1100 Policy – Economic Crime
- S 1101 Procedure/SOP – Money Laundering
- S 1102 Procedure/SOP – Commercial Fraud
- S 1103 Procedure/ SOP– Financial Investigation
- S 1104 Procedure/SOP – Cash Seizures – Essex Only
- S 1105 Procedure/SOP – Cash Seizures – Kent Only
8.0 Other source documents, e.g. Legislation, APP, partnership agreements (if applicable)

- ACPO Practice Advise on The Management and Use of Proceeds of Crime Legislation;
- ACPO Practice Advice on Financial Investigation.

8.1 The legal basis within which this policy is to operate can be found in:

- Drug Trafficking Act 1994;
- Criminal Justice Act 1993;
- Proceeds of Crime Act 2002;
- Terrorism Act 2000;
- HMRC Gateway Procedure;
- The Police and Criminal Evidence Act 1984;
- The Human Rights Act 1998;
- The Criminal Procedure and Investigations Act 1996 (CPIA);
- The Regulation of Investigatory Powers Act 2000 (RIPA);
- The Data Protection Act 1998 (DPA);