



Home Office

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Mr Mike Batty
PO BOX 232
16 Church Road
Stockton on Tees
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Reference: T28776/7

Wednesday 2 January 2008

Dear Mr Batty,

Thank you for your letter of 13 November 2007 to the Home Secretary about cash seizure and unexplained wealth. The letter has been passed to me for a response as an official with policy responsibilities for money laundering and recovering the proceeds of crime.

In respect of cash seizures, the Government introduced the Asset Recovery Incentivisation Scheme which enables all law enforcement agencies to receive a 50% share of criminal assets they recover locally. Home Office guidance encourages agencies to use incentive payments to further drive up performance on asset recovery and financial investigation, and where appropriate to fund local crime fighting priorities for the benefit of the community.

The Home Office receives the remaining 50% to support its core commitments including five Regional Asset Recovery Teams.

The Asset Recovery Incentivisation Scheme is currently under review and any changes will be considered by Ministers in the near future.

On your second issue concerning unexplained wealth; the Proceeds of Crime Act 2002 was specifically designed to account for these situations.

The three principal money laundering offences are: concealing criminal proceeds; assisting another person to retain criminal proceeds; and acquiring, possessing or using criminal proceeds. There is no distinction between one's own or another's proceeds. The money laundering offences in the 2002 Act also removed the need to prove a predicate offence which then resulted in the money laundering; rather the prosecutor has to prove that the property the defendant handled was the proceeds of criminal conduct, not that it came from a specific offence or class of offences. Accordingly, the investigation powers in the 2002 Act can already be utilised in the way you suggest and can result in a money laundering prosecution.

There is also the civil recovery scheme which empowers the Director of the Assets Recovery Agency to sue in the High Court to recover proceeds of unlawful conduct. It is essentially the same as other civil proceedings where the plaintiff sues for the return of property which is not rightfully in the ownership of the respondent. The High Court is asked to make a recovery order and the burden of proof rests with the Director on the civil standard, namely the balance of probabilities.

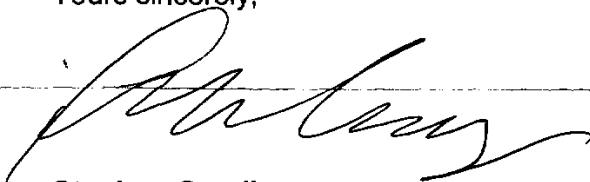
Civil recovery focuses on the origins of the property, not on the guilt of individuals and does not lead to a conviction or imprisonment. An example may be a criminal defendant who cannot be identified for the purposes of a particular prosecution but property can be shown to be the proceeds of crime. The result of civil recovery is that criminal assets are recovered and therefore not available for the enjoyment by the criminal.

Full use of the Proceeds of Crime Act is a long term aim; supporting the growing annual targets for values of criminal assets recovered. There is a Asset Recovery Board, a champion of the legislation in every CPS-area and plans in progress to ensure that more is recovered. The total of £125 million recovered in 2007-07 is a five fold increase on the amount recovered five years ago.

I am confident that the continued progress will address the concern you raise as well as others expressed by the asset recovery world. I would like to finally place on record my thanks for your continued work and support in this area.

I similarly copy this letter to Frank Cook MP and Dari Taylor MP.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Goadby', written over a horizontal dashed line.

Stephen Goadby