



Home Office

Proceeds of Crime Act 2002 (POCA) money laundering provisions

This guidance is based on the [Proceeds of Crime Act 2002 \(POCA\)](#)

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This guidance tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about money laundering provisions under the Proceeds of Crime Act 2002 (POCA).

This guidance is based on POCA. See related link: Proceeds of Crime Act 2002.

It includes:

- what is money laundering
- appropriate officers
- criminal property
- statutory defences to money laundering
- suspicious activity reports (SARs)
- failure to disclose
- consent
- tipping off

Changes to this guidance - This page lists changes to the 'Proceeds of Crime Act 2002 (POCA) money laundering provisions' guidance with the most recent at the top.

Contact – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.

Information owner – This page tells you about this version of the guidance and who owns it.

Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.

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Changes to this guidance

About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off	<p>This page lists changes to the 'Proceeds of Crime Act 2002 (POCA) money laundering provisions' guidance, with the most recent at the top.</p> <table border="1"><thead><tr><th data-bbox="490 400 831 443">Date of the change</th><th data-bbox="831 400 1532 443">Details of the change</th></tr></thead><tbody><tr><td data-bbox="490 443 831 557">11 March 2015</td><td data-bbox="831 443 1532 557">Change request:<ul style="list-style-type: none">• minor housekeeping</td></tr><tr><td data-bbox="490 557 831 708">17 December 2013</td><td data-bbox="831 557 1532 708">Six month review by the modernised guidance team:<ul style="list-style-type: none">• Minor housekeeping changes.</td></tr><tr><td data-bbox="490 708 831 782">19 July 2013</td><td data-bbox="831 708 1532 782">Completely revised by the modernised guidance team.</td></tr></tbody></table>	Date of the change	Details of the change	11 March 2015	Change request: <ul style="list-style-type: none">• minor housekeeping	17 December 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none">• Minor housekeeping changes.	19 July 2013	Completely revised by the modernised guidance team.	Related links See also Contact Information owner
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Appropriate officers

<p>About this guidance What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you who may undertake a money laundering investigation.</p> <p>Only appropriate officers can undertake a money laundering investigation. Under section 378 of the Proceeds of Crime Act 2002 (POCA) an 'appropriate officer' is defined as either:</p> <ul style="list-style-type: none">• an accredited financial investigator• a customs officer• a police officer <p>Powers of an appropriate officer</p> <p>Under part 8 of POCA, in relation to a money laundering investigation, an appropriate officer has the power to get:</p> <ul style="list-style-type: none">• production orders• account monitoring orders• customer information orders• search and seizure warrants <p>For more information see related link: Proceeds of Crime Act 2002.</p> <p>Section 55 of the Crime and Courts Act 2013</p> <p>Section 55 of the Crime and Courts Act 2013 amends POCA so:</p> <ul style="list-style-type: none">• an immigration officer can be an appropriate officer for the purpose of investigations under part 8 of POCA• a Home Office officer of a grade not below that of Her Majesty's inspector (HMI) or senior investigation officer (SIO) can be a senior appropriate officer for the purpose of investigations under part 8 of POCA <p>For more information see related link: Crime and Courts Act 2013.</p>	<p>External links</p> <p>Proceeds of Crime Act 2002</p> <p>Crime and Courts Act 2013</p>
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What is money laundering?

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This section tells you the definition of money laundering and about money laundering offences.</p> <p>Definition of ‘money laundering’ ‘Money laundering’ is the process of hiding illegal sources of money.</p> <p>Under the Proceeds of Crime Act 2002 (POCA) money laundering offences are committed when a person:</p> <ul style="list-style-type: none">• conceals criminal property (POCA section 327)• enters into an arrangement regarding criminal property (POCA section 328)• acquires, uses or possesses criminal property (POCA section 329) <p>These are serious offences that carry a maximum 14 year sentence. For more information on concealing, arranging and acquiring, see related links.</p> <p>For information on officers who can investigate potential money laundering offences, see related link: Appropriate officers.</p> <p>Scope of POCA POCA can be used to prosecute both:</p> <ul style="list-style-type: none">• criminals laundering their own proceeds• those several stages removed from the original crime or offender <p>It does not matter who was responsible for the criminal conduct or what it was, as long as the offender knew or suspected that the property involved was ‘criminal property’.</p> <p>For a definition of criminal property, see related link.</p>	<p>In this section Concealing</p> <p>Arrangements</p> <p>Acquisition, use or possession</p> <p>Related links Links to staff intranet removed</p> <p>Criminal property</p> <p>Appropriate officers</p> <p>External links Proceeds of Crime Act 2002</p>
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	<p>Money laundering includes:</p> <ul style="list-style-type: none">• conspiracies (agreements between people to break the law)• attempts to commit these offences• counselling (advising someone to break the law)• aiding or abetting (helping)• procuring (getting goods or service by illegal means) <p>Criminal lifestyle offences Money laundering offences under sections 327 and 328 of POCA are criminal lifestyle offences.</p> <p>Criminal lifestyle is defined in POCA in sections:</p> <ul style="list-style-type: none">• 75 (England and Wales)• 142 (Scotland)• 223 (Northern Ireland) <p>For more information see related link: Criminal lifestyle.</p>	
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Concealing

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you about concealing offences under section 327 of the Proceeds of Crime Act 2002 (POCA).</p> <p>A person commits an offence under section 327 if criminal property is:</p> <ul style="list-style-type: none">• concealed• disguised• converted• transferred• removed from the jurisdiction or area of authority under which the law applies (for example, it is moved overseas) <p>Concealing or disguising criminal property includes concealing or disguising its:</p> <ul style="list-style-type: none">• nature• source• location• disposition• movement• ownership of any rights with respect to it <p>This offence is committed by the person being investigated in relation to the proceeds of either:</p> <ul style="list-style-type: none">• their own criminal activity• that of someone else <p>For more information on concealing and statutory defences to concealing offences, see related links:</p>	<p>In this section Arrangements</p> <p>Acquisition, use or possession</p> <p>Related links Statutory defences to money laundering</p> <p>External links Section 327 Proceeds of Crime Act 2002</p>
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- Section 327 Proceeds of Crime Act 2002
- Statutory defences to money laundering

Examples of concealing

Examples of concealing, disguising, converting or transferring under section 327 of POCA include:

- taking or transferring criminal property out of the country
- buying a house with stolen money
- giving criminal property to someone else
- registering a car bought with the proceeds of crime in someone else's name
- exchanging the proceeds of crime into another currency

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Arrangements

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you about arrangement offences under section 328 of the Proceeds of Crime Act 2002 (POCA).</p> <p>Arrangement is when a person helps someone else to keep the proceeds of crime. A person commits an offence under section 328 when they know or suspect they are helping someone to:</p> <ul style="list-style-type: none">• acquire• retain• use• control criminal property <p>For more information on arrangements and statutory defences to arrangement offences, see related links:</p> <ul style="list-style-type: none">• Section 328 Proceeds of Crime Act 2002• Statutory defences to money laundering <p>Examples of arrangements</p> <p>Examples of arrangements under section 328 of POCA include:</p> <ul style="list-style-type: none">• a lawyer who knowingly helps a person buy a house with criminal money• a person who arranges for their partner or parent to put a vehicle which is criminal property in their name	<p>In this section Concealing</p> <p>Acquisition, use or possession</p> <p>Related links Statutory defences to money laundering</p> <p>External links Section 328 Proceeds of Crime Act 2002</p>
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Acquisition, use and possession

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you about acquisition, use and possession offences under section 329 of the Proceeds of Crime Act 2002 (POCA).</p> <p>A person commits an offence under section 329 of POCA when they:</p> <ul style="list-style-type: none">• acquire• possess• use criminal property <p>For more information on acquisition and statutory defences to acquisition offences, see related links:</p> <ul style="list-style-type: none">• Section 329 Proceeds of Crime Act 2002• Statutory defences to money laundering <p>Examples of acquisition, use and possession</p> <p>Examples of acquisition, use and possession under section 329 of POCA include when a person:</p> <ul style="list-style-type: none">• carries• holds• looks after criminal property (for example cash)• acquires criminal property for 'inadequate consideration' (this means an item is bought for significantly less than the market value, for example a car worth £50,000 is bought for £5,000)	<p>In this section Concealing</p> <p>Arrangements</p> <p>Related links Statutory defences to money laundering</p> <p>External links Section 329 Proceeds of Crime Act 2002</p>
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Criminal property

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This page tells you the definitions of 'criminal property' under the Proceeds of Crime Act 2002 (POCA).

Criminal property

Under section 340 of POCA, criminal property is that which:

- was gained from criminal conduct either in:
 - whole
 - part
 - directly
 - indirectly
- the alleged offender knows or suspects was gained from criminal conduct

For more information on criminal conduct and criminal property, see related link: Section 340 Proceeds of Crime Act 2002.

'Criminal property' may include:

- money
- all forms of possession or real estate
- any other intangible or incorporeal property (not existing in physical form, for example copyright, trademarks, or patents)

Conspiracy cases

To make a money laundering conspiracy case successful, you must prove the conspirators knew the property came from criminal conduct rather than just suspecting this to be the case.

External links

[Section 340 Proceeds of Crime Act 2002](#)

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Statutory defences to money laundering

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you about the legal defences to money laundering under section 338 of the Proceeds of Crime Act 2002 (POCA).</p> <p>A person does not commit an offence under POCA sections 327 (concealing offences), 328 (arrangement offences), or 329 (acquisition offences) if they:</p> <ul style="list-style-type: none">• make an authorised disclosure under section 338 of POCA:<ul style="list-style-type: none">○ before they do the act○ have the appropriate consent• intended to make such a disclosure but had a reasonable excuse for not doing so• are carrying out a job relating to the enforcement of any:<ul style="list-style-type: none">○ part of POCA○ other criminal conduct or benefit from criminal conduct• acquired, used or had possession of the property for adequate consideration (this means it was bought at market value (this defence applies to section 329 offences only)) <p>For more information on statutory defence and concealing, arrangement and acquisition offences, see related links:</p> <ul style="list-style-type: none">• Section 338 of the Proceeds of Crime Act 2002• Concealing• Arrangement• Acquisition, use and possession	<p>Related links Concealing Arrangements Acquisition, use or possession External links Section 338 of the Proceeds of Crime Act 2002</p>
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Suspicious activity reports (SARs)

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	<p>Official sensitive – do not disclose – end of section</p>	
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Failure to disclose

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you about the offences of failing to disclose knowledge or suspicion of money laundering under the Proceeds of Crime Act 2002 (POCA) and amendments to the disclosure regime by the Serious Organised Crime and Police Act 2005 (SOCPA).</p> <p>POCA created new offences of failing to disclose knowledge or suspicion of money laundering. The sections are:</p> <ul style="list-style-type: none">• section 330 - failure to disclose: regulated sector• section 331 - failure to disclose: nominated officers in the regulated sector• section 332 - failure to disclose: other nominated officers <p>Each offence carries a maximum penalty on conviction of:</p> <ul style="list-style-type: none">• 5 years imprisonment• a fine• both <p>The regulated sector</p> <p>The offences in sections 330 and 331 of POCA apply to people working in the regulated sector. They commit an offence if they:</p> <ul style="list-style-type: none">• receive information in the course of a business in the regulated sector which causes them to:<ul style="list-style-type: none">○ know or suspect a person is engaged in money laundering○ have reasonable grounds for knowing or suspecting that a person is engaged in money laundering• do not disclose that information to a nominated officer , as defined in section 331 of POCA as soon as is practicable after the information comes to them <p>This reflects the policy that people employed in the regulated sector are expected to be</p>	<p>External links</p> <p>Proceeds of Crime Act 2002 Serious Organised Crime and Police Act 2005</p>
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more diligent when handling transactions than those employed in other businesses.

The non-regulated sector – nominated officers

Under POCA, section 332 offences only apply to people:

- employed in the non-regulated sector
- who have been nominated by their organisations to receive authorised disclosures as defined in section 338 of POCA (a ‘nominated officer’)

For further information see section 338 of the related link: Proceeds of Crime Act 2002.

You must remember that the reasonable grounds for knowing or suspecting test defined in section 331(2)(a) does not apply to nominated officers working in the non-regulated sector.

Amendments to the disclosure regime by the Serious Organised Crime and Police Act 2005 (SOCPA)

The failure to disclose offences in sections 330, 331 and 332 of POCA have been amended by section 104 of SOCPA. This adds a condition that the person must also:

- know the:
 - identity of the person engaged in money laundering
 - whereabouts of the criminal property
- believe, or it is reasonable to expect them to believe, the information may assist in identifying the:
 - person
 - the criminal property

Please note a person does not have to make a disclosure if they do not have this information.

For more information see section 104 of related link: Serious Organised Crime and Police Act 2005.

Exceptions for nominated officers’ disclosure

This guidance is based on the Proceeds of Crime Act 2002

Section 106 of SOCPA excuses nominated officers from disclosing knowledge or suspicion of money laundering to the National Crime Agency (NCA) (formerly known as the Serious Organised Crime Agency (SOCA)) if the person making the disclosure is:

- a professional legal advisor who is:
 - seeking advice on whether information that has come to them in privileged circumstances should be disclosed

If this is used as a potential defence you must seek legal guidance as soon as possible.

For more information see section 106 of related link: [Serious Organised Crime and Police Act 2005](#).

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Consent

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you when consent is needed before a transaction or deal can be carried out when a suspicious activity report (SAR) has been made about it to the National Crime Agency (NCA) (formerly known as the Serious Organised Crime Agency (SOCA)).</p> <p>Where a disclosure is made before a transaction is carried out, sections 335 and 336 of the Proceeds of Crime Act 2002 (POCA) require appropriate consent to be given to an action which would otherwise be illegal.</p> <p>The NCA receives SARs. They must give their consent on whether a transaction can be carried out or not within 7 working days of receiving the SAR.</p> <p>The transaction can go ahead, without a person or business, committing an offence if:</p> <ul style="list-style-type: none">• consent is granted• nothing is heard after 7 working days <p>Withheld consent</p> <p>If consent is withheld you have a suspended period of a further 31 calendar days to:</p> <ul style="list-style-type: none">• obtain a restraint order• decide to take no further action (you must tell the NCA as soon as you decide to take no further action) <p>The NCA must review the reasons for withholding consent throughout the 31 calendar days and any changes in circumstances must be acted on promptly, and appropriately, for example by allowing the transaction to happen.</p> <p>If a restraint order has not been obtained after the expiry of this 31 day period, the transaction may proceed without an offence being committed.</p>	<p>External links Proceeds of Crime Act 2002</p>
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Tipping off

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you when it is an offence to make a disclosure or reveal information that is likely to prejudice or harm a money laundering investigation (known as 'tipping off').</p> <p>POCA section 333 A person commits an offence under section 333 of the Proceeds of Crime Act 2002 (POCA) if they make a disclosure that is likely to prejudice a money laundering investigation. For example, informing an individual of the disclosure to the National Crime Agency (NCA) (formerly known as the Serious Organised Crime Agency (SOCA)).</p> <p>For more information see section 333 of related link: Proceeds of Crime Act 2002.</p> <p>POCA section 342 Section 342 of POCA contains a separate offence of prejudicing an investigation by:</p> <ul style="list-style-type: none">• alerting individuals to an investigation being, or about to be undertaken• destroying, concealing or falsifying relevant documents <p>For further information see section 342 of related link: Proceeds of Crime Act 2002.</p> <p>Statutory defence A statutory defence is available to a person who has prejudiced an investigation if they:</p> <ul style="list-style-type: none">• do not know or suspect that a disclosure will prejudice an investigation• are a professional legal adviser <p>The maximum penalty on conviction for all the disclosure-related offences is 5 years imprisonment.</p>	<p>External links Proceeds of Crime Act 2002</p>
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Contact

<p>About this guidance Appropriate officers What is money laundering? Criminal property Statutory defences to money laundering Suspicious activity reports (SARs) Failure to disclose Consent Tipping off</p>	<p>This page tells you who to contact for more help with the Proceeds of Crime Act 2002 (POCA) money laundering provisions.</p> <p>If you have read this guidance and still need more help with this category, you must first ask your line manager.</p> <div style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Official sensitive – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p><p style="text-align: center;">Official sensitive – do not disclose – end of section</p></div> <p>Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the criminal investigation operational guidance team, using the related link: Criminal investigation operational guidance inbox, who will ask GRaFT to update the guidance, if appropriate.</p> <p>GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send this using the link: Email: Guidance, rules and forms team.</p>	<p>Related links Changes to this guidance Information owner</p> <p>External links Links to staff intranet removed</p>
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This page tells you about this version of the 'Proceeds of Crime Act 2002 (POCA) money laundering provisions' guidance and who owns it.

Version	3.0
Valid from date	11 March 2015
Policy owner	Official – sensitive: information removed
Cleared by director	Official – sensitive: information removed
Director's role	Official – sensitive: information removed
Clearance date	18 July 2013
This version approved for publication by:	Official – sensitive: information removed
Approver's role	Official – sensitive: information removed
Approval date	23 January 2015

Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the criminal investigation operational guidance team, using the related link: Criminal investigation operational guidance inbox, who will ask GRaFT to update the guidance, if appropriate.

GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send this using the link: Email: Guidance, rules and forms team.

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