

<b>Approved by:</b> Mark Gilmartin, Director of Essex & Kent Support Services	<b>Classification of paper:</b>  Not Protectively marked
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<b>Report to PCC</b>	<b>Report reference number</b> PCC/0020/13
<b>Date of decision</b>	<b>Area of county/stakeholders affected</b>
<b>Date of report</b> 25 <sup>th</sup> March 2013	County wide / the public
<b>Title of report</b> Establishment of Proceeds of Crime Act (POCA) Reserve	
<b>Report by</b> Debbie Martin, Chief Finance Officer of the Chief Constable	
<b>Enquiries to</b> Debbie Martin, Chief Finance Officer of the Chief Constable	

### 1.0 Purpose of Report

- 1.1 To explain how Asset Recovery Incentivisation Scheme (ARIS) operates and seek approval for the setting up of an earmarked reserve.

### 2.0 Recommendations

- 2.1 To approve the setting up of an earmarked reserve, namely a Proceeds of Crime Act (POCA) Reserve, in accordance with Financial Regulations B.10.10.

### 3.0 Benefits of Proposal

- 3.1 The accounting rules for managing ARIS receipts require the monies to be set aside for crime reduction. Where there are surplus funds within a financial year i.e. receipts are greater than force budget, the most appropriate accounting treatment is to place the surplus funds in an earmarked reserve. If the funds were not placed in an earmarked reserve then they would default into force funds which is contra to POCA .
- 3.2 Most forces operate an earmarked reserve for POCA monies.

#### **4.0 Background and Proposal**

- 4.1 The primary function of the POCA legislation is to reduce crime. The Asset Recovery Incentivisation Scheme (ARIS) is a means to supporting police forces in the delivery of crime reduction.
- 4.2 The key arrangements of the ARIS which are applicable to police forces are set out in Appendix A.
- 4.3 The ARIS arrangement state "Use of incentive payments .... is a matter for each agency but incentive payments should be used to further drive up performance on asset recovery and, where appropriate, to fund local crime fighting priorities for the benefit of the community."
- 4.4 There is an expectation that funds are to be used in support of policing performance objectives, in particular:-
- Have a positive and direct effect on citizen focused policing
  - Increasing operational/crime fighting performance in order to build public confidence, effectively tackle crime and anti-social behaviour and protect the public.
  - Increase the opportunity to carry on the virtuous circle of asset recovery, by removing criminal wealth and use it to the benefit of communities policed.
- 4.5 POCA funds cannot be used on non operational policing.
- 4.6 The proposal is to place surplus monies in a separate earmarked reserve, thereby allowing the POCA Board to draw down monies in accordance with ARIS arrangements.

#### **5.0 Police and Crime Plan**

- 5.1 The Police and Crime Plan includes 'Improving crime prevention' as one of its key areas of focus. The utilisation of the monies in the reserve will contribute to achieving this objective.

#### **6.0 Police Operational Implications**

- 6.1 The funding can facilitate the following:-
- a) Increase budget and fund additional posts in Serious Crime Directorate or national teams.
  - b) Ad hoc projects. Examples include test purchase operations, operations to dismantle organised crime routes, contributions to a drug rehabilitation centre with the aim of crime reduction/ prevention, and Operation Morris (current Kent operation which aims to seize and sell criminals' cars).

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- c) A combination of a & b.

## **7.0 Financial Implications**

- 7.1 Essex Police has a low POCA budget at £172k. This pays for four Financial Investigators at a cost of £162k p.a.
- 7.2 The ARIS quarter 2 receipt on 31<sup>st</sup> December 2012 was £587k, and the force is now forecasting a surplus in 2012/13 of £426k; this is the first time Essex Police has been substantially over budget.
- 7.3 By placing the surplus POCA funds in a separate earmarked reserve, the force monies can be specifically utilised for reducing crime.

## **8.0 Legal and Contractual Implications**

- 8.1 The surplus POCA funds cannot default into the General Reserve as this would not allow the ARIS receipts to be spent on crime reduction.

## **9.0 Staffing and Other Resource Implications**

- 9.1 None

## **10.0 Equality and Diversity Implications**

- 10.1 Non apparent

## **11.0 Background Papers**

- 11.1 Please see appendix A Extract from ARAS

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**Extract from ARIS 2012/13.**

Source: Home Office Organised and Financial Crime Unit

1. Amount available for allocation

Under the asset recovery incentivisation scheme (ARIS) agencies will get back 50% of what they recover.

The amount of incentive money available for allocation will be determined by the total value of receipts received in the Home Office in the financial year

Incentive allocations will be based on each agency's contribution to the total value of remittances from

- cash forfeiture orders,
- confiscation orders (including part paid orders and interest), and
- Civil recovery and taxation cases.

Each agency's contribution will be determined as recorded by JARD (Joint Asset Recovery Database). If an agency is not recorded on JARD as a contributor, it will not receive an incentive payment. Compensation orders and compensation remittances are excluded from the scheme.

2. Allocation of 50% share

Agencies will receive the appropriate share from their asset recovery activities allocated as follows:

*Cash Forfeitures*

- All agencies with cash seizure and detention powers under the Proceeds of Crime Act 2002 – 50% share of the forfeited amount to the agency

*Confiscation order receipts*

**CJS Ministers have agreed that confiscation order receipts will be split three ways thus:**

**Investigation – 18.75%**

**Prosecution – 18.75% and**

**Enforcement – 12.5%**

- Police, CPS and MoJ confiscation order activity – 3 ways split of share as above where all agencies are involved

5. Method of payment

- Home Office will aim to make incentive payments directly to agencies and OGDs quarterly through the BACs system.
- Incentive payments will be paid directly to agencies and partner agencies that are recorded on JARD as contributors to remittances.

## 6. Managing Windfalls

- The Home Office notes the ARWG view that no specific action need be taken at this stage on how to handle huge windfalls, but reserves the right to return to this issue.

## 7. Use of Incentive Payments

- This is a matter for each agency but incentive payments should be used to further drive up performance on asset recovery and, where appropriate, to fund local crime fighting priorities for the benefit of the community.

## 8. Accounting for ARIS receipts

- .....Police authorities and local authorities should follow their own accounting rules.
- The Home Office will monitor the use of incentive monies to assess issues of propriety and regularity. The Home Office will ask all asset recovery agencies (including all police forces and local authorities) at the end of the financial year to account for their use of incentive payments. Each agency will be required to submit one consolidated return.
- Information will be required as follows:
  - details of how funds have been used
  - for each initiative/project how much has been allocated
  - how has this contributed to improving asset recovery performance, or tackling crime
  - what are the particular asset recovery outcomes.


**Report Approval**

The report will be signed off by the Chief Executive and CFO and the PCC Solicitor where legal implications arise.

Chief Executive/M.O.   
Chief Financial Officer .....  
PCC Legal Advisor ..... (as necessary)

**Decision**

I agree the recommendations to this report

  
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**PCC/Deputy PCC**

I do not agree the recommendations to this report because

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**PCC/Deputy PCC**

**Publication**

**Reasons for non-publication** (*state 'None' if applicable*)

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Signed/Print name

Report for publication

YES

NO

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

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