

# Social Justice and Regeneration Committee

**SJR(2)-04-07 (p.1)**

**Date: Wednesday 7 March 2007**

**Time: 9.30am – 12.30pm**

**Venue: The Senedd, Cardiff Bay**

## **The Assets Recovery Agency and Asset Recovery in Wales**

### **Background**

The Assets Recovery Agency was established through the Proceeds of Crime Act (POCA) 2002 and set up in February 2003.

The Agency forms part of the Government's wider strategy for promoting asset recovery in response to the increasing recognition of the damage to society of leaving illicitly obtained assets in the hands of criminals:

these assets provide the working capital for further crime;

merely imprisoning criminals but leaving their assets untouched enables them to enjoy a life of luxury on their release, and often allows them to run their criminal empires from behind bars; and

criminals living off the proceeds of crime send a message to young people and communities that crime pays.

In recent years law enforcement agencies have made increasing use of the confiscation/asset recovery powers at their disposal increasing the impact on the ability of criminals to profit out of crime.

<b>Year</b>	<b>Assets recovered (nationally)</b>
2003/2004	£54.5m
2004/2005	£84.0m
2005/2006	£96.0m

### **Remit and aims**

The purpose of the Agency is to make sure that crime does not pay and it is one body in the wider

asset recovery community working to take the profit out of crime.

The Agency has a national civil recovery remit with an office in London covering England and Wales and an office in Belfast covering Northern Ireland. The Agency also has a regional presence through the Criminal Confiscation Team which has a number of expert financial investigators located within the five Regional Asset Recovery Teams (RARTs).

The Proceeds of Crime Act introduced the Agency's unique powers in civil recovery and taxation, and also give it criminal confiscation powers:

**civil recovery:** to recover in civil proceedings before the High Court assets obtained through unlawful conduct. This is a civil action against the property – not against its owner. The powers are used in circumstances such as where there is insufficient evidence for a successful prosecution, where a confiscation action has failed, and where the owner of the property is dead or has fled overseas. Whilst a handful of other jurisdictions have civil recovery schemes with some similarities, the Agency's civil recovery powers are unique

**innovative powers to tax income, profit or gain arising from criminal conduct:** again these powers are unique, and relate to the source of the taxpayer's income etc and not whether that person has been successfully prosecuted

**criminal confiscation:** law enforcement and prosecutors have for some years been able to obtain and then enforce confiscation orders where a defendant is convicted of an acquisitive crime to deprive them of their benefit from crime. The Agency also has the power to conduct confiscation investigations, which it uses in support of partner law enforcement agencies.

In addition to this, the Act gives the Agency a statutory obligation to provide training and accreditation in respect of financial investigation. To that end the Agency established the Financial Investigation Centre of Excellence through which the training function is delivered nationally.

Thus in line with the Agency's functions set out in legislation, the Agency has clearly stated its strategic aims:

to disrupt organised criminal enterprises through the recovery of criminal assets, thereby alleviating the effects of crime on communities;

to promote the use of financial investigation as an integral part of criminal investigation, within and outside the Agency, domestically and internationally, through training and continuing professional development.

## **Performance**

### **Asset Recovery**

To date the Agency has experienced notable success in disrupting criminal enterprises and has built

up an extensive pipeline of casework, but has experienced significant challenges in converting these disruptions into receipts. In the current year, however, ARA is confident that these delays are beginning to change it will exceed all its baseline targets by the end of the financial year and is likely to achieve results at the upper end of the range targets.

Since its inception, the Agency has delivered the following:

<b>Performance indicator</b>	<b>Performance level</b>
Disruptions	£171.9m
Recovered assets	£22.8m

## **Training**

The Financial Investigation Centre of Excellence provides the Agency with the capacity to deliver on the Director's statutory obligations for the provision of financial investigation training and the accreditation and monitoring of financial investigators (FIs).

The Centre delivers financial investigation courses for new FIs as well as enhanced courses for existing FIs (Confiscation, Money Laundering and Enhanced Financial Investigation Skills) and other courses including Pre-Requisites, Tutor Training, Financial Investigation Management and Senior Appropriate Officer courses.

Since being set up in 2003 the Centre of Excellence (together with its training partners) has trained in the region of 6,000 financial investigators from a wide range of bodies across the asset recovery community. This year, the Centre of Excellence is on track to meet its target of delivering 139 courses in conjunction with its training partners (Greater Manchester Police, Metropolitan Police Service, HM Revenue and Customs, Merseyside Police, Police Service NI and the Serious Organised Crime Agency).

In addition the Centre of Excellence delivers training internationally as part of the Agency's response to requests for assistance in line with HM Treasury's strategic targets for priority jurisdictions. In 2006/2007 this has included Ghana and Northern Cyprus.

The Financial Investigation Centre of Excellence has been chosen to project manage EURO-DEFI, the delivery arm of a European Union AGIS project which is setting common standards in financial investigation and accreditation across all 27 member states. This will involve the production of training materials to agreed common standards and subsequent roll out of the training.

The Centre hosts an annual European Conference on Asset Tracing discussing intelligence and evidence exchange across Europe and beyond.

## **The Assets Recovery Agency's work in Wales**

In addition to directly working with partners in Wales on cases involving both civil recovery and criminal confiscation, the Agency is also investigating a number of cases where the perpetrator/respondent is not resident there but the criminality took place in Wales.

Since January 2004 the Assets Recovery Agency has had two Senior Financial Investigators from the Criminal Confiscation Team co-located with the Wales Regional Asset Recovery Team (RART).

In addition to their investigations and casework, Agency Financial Investigators provide a liaison facility for each police force via their Financial Investigation Unit and Fraud Squad and carry out personal visits for such liaison work. They also provide advice to the RART and Police Forces and other law enforcement agencies on financial investigation and other areas of the law; work closely with Trading Standards Offices, Housing Benefit Offices, and Environmental Health Offices in the Local Authorities.

Through the work of the ARA Criminal Confiscation Team in Wales, the Agency now has a presence at the Wales Anti- Counterfeiting Conference and the Welsh National Housing Benefit Investigation Conference and the investigators also participate in the regional Financial Investigators Working Group quarterly meetings.

ARA investigators in the Wales RART also provide a mentoring facility to support the financial investigator training carried out by the Centre of Excellence. Within the Wales Region ARA investigators have mentored new investigators from the following agencies: South Wales Police, Wales RART staff, Cardiff City Council, Caerphilly County Council and Companies House, Cardiff. Mentoring gives skills to others to carry out similar work within the region, and thereby increases the impact of Proceeds of Crime Act in the region. Those mentored are now fully accredited financial investigators.

Across the Police Forces in Wales there are 81 active Financial Investigators all trained and supported by the Agency's training arm (and training partners):

<b>Region</b>	<b>Active Financial Investigators</b>
South Wales	39
North Wales	10
Gwent	16
South Wales RART	11
Dyfed Powys	5

Since joining the RART in 2004 the Criminal Confiscation Team has enjoyed a number of successful cases with partners in Wales. In total, working with partners in the Wales RART region (comprising

Gwent, South Wales and Dyfed Powys) have concluded five cases and confiscated assets to the value of some £3.4 million and where appropriate incentivisation payments have been made. The criminality involved in these cases includes mortgage fraud, counterfeiting, fraud and money laundering. ARA casework continues with Welsh partners with investigations into the ongoing stream of referrals.

In civil recovery and taxation a total of thirteen cases have been referred to the Agency from Welsh partners. Of those cases, eight have been adopted and are under investigation and one tax case has been completed with a value of over £100,000.

## **Case studies**

Respondent: David Edward Dale of Bryncoch, Neath

ARA Financial Investigators, working in partnership with South Wales Police and the Crown Prosecution Service, secured the payment of £3.3 million from David Edward Dale from Bryncoch, Neath, a property developer who developed a portfolio of some 450 houses using fraudulent mortgages.

The investigation into the activities of Mr Dale covered the period from 1991 to 1999, during which he initially obtained at least 57 homes unlawfully using the details of family and friends, before expanding his operation on a more commercial basis.

Respondents: Maria and David Hancock of Newport

ARA Financial Investigators, working in partnership with Newport Trading Standards Service, secured Confiscation Orders worth a total of £25,150 against Maria and David Hancock of Cedarwood Drive, Rogerstone, Newport, who were convicted of counterfeiting offences.

On 31st March 2005, officers from Newport Trading Standards Service searched the Hancocks' home address. On the dining room table they found two packages sent from Thailand which contained counterfeit Disney DVDs in cellophane wrappers. In an upstairs room used as a study, a further six boxes of counterfeit Disney DVDs were found, also imported from Thailand. Officers also uncovered eight addressed envelopes containing fake Disney DVDs which were ready for dispatch, as well as two computers, empty DVD boxes, cellophane case wraps, Royal Mail receipts for posted goods and other paraphernalia used in the packaging and postage of DVDs. In total 324 counterfeit DVDs were removed from the property, the majority in multipacks with inserts ready to be put into DVD cases.

## **Asset Recovery in Wales**

### **Regional Asset Recovery Teams**

The Regional Asset Recovery Teams are funded out of the Home Office's Recovered Assets Incentivisation Fund and bring together expertise from various police forces, HM Revenue &

Customs, Assets Recovery Agency, the Crown Prosecution Service and Serious Organised Crime Agency.

There are five regional teams. Wales is covered by the Wales RART (South Wales, Dyfed Powys and Gwent) and the North West RART (North Wales). The aim of the team is to maximise opportunities under the Proceeds of Crime Act, to make a significant contribution to a reduction in crime and ensure the effective delivery of justice.

The RARTs provide a dedicated confiscation, cash seizure and money laundering service to partners in the Police, HMRC and local authorities.

## Wales RART

Performance indicator	2004/2005	2005/2006
Restraint	£5.5m	£10.6m
Confiscation	£0.1m	£5.3m

## Incentivisation

The Home Office Police Incentivisation Scheme was introduced in 2004 and provides for a share of the assets recovered to be returned to the original police force.

Following the success of the Police Incentivisation Scheme in 2004/2005 and 2005/2006 it was extended in 2006/2007 to include all law enforcement agencies and Departments involved in asset recovery.

As a result of the scheme, the following incentivisation receipts were received by Police Forces in Wales:

Police Force	2004/2005	2005/2006
Gwent	£67,471	£111,391
South Wales	£61,055	£1,175,168
Dyfed Powys	£30,645	£104,545
North Wales	£16,729	£233,190
Total	£175,870	£1,624,294

Earlier incentivisation schemes did not specify how payments should be used, but recommended that

Police Forces use the money to reinforce and support their asset recovery strategies. New guidance in respect of the incentivisation scheme 2006-2008 recommends that a proportion of incentivisation receipts must be used by all participating organisations to further drive up performance on asset recovery.

## **The Future**

In January 2007 the Home Secretary announced proposals for the Agency's operational work to be merged into the Serious Organised Crime Agency (SOCA) and its training provision function to be merged into the new National Policing Improvement Agency. The merger between SOCA and ARA, to help further improve asset recovery performance, was the key driver. The Serious Crime Bill, which contains the necessary amendments to the Proceeds of Crime Act to bring about the merger, is currently going through the Parliamentary process.

## **Further information**

The Assets Recovery Agency Annual Reports and Business plans are available at [www.assetsrecovery.gov.uk](http://www.assetsrecovery.gov.uk).

Further information about the Regional Asset Recovery Teams is available at [www.rart.gov.uk](http://www.rart.gov.uk).

The Assets Recovery Agency also produces two monthly newsletters on behalf of the wider asset recovery community: The Proceeds of Crime Update and the Money Laundering News. Both are available at [www.assetsrecovery.gov.uk/MediaCentre](http://www.assetsrecovery.gov.uk/MediaCentre).