



POCA Advisory **Issue 1**

MARCH 2026

PAAF

POCA ADVISORY AND ASSET FORFEITURE

Welcome to the first edition of QEB's POCA Advisory Newsletter.

Our first edition coincides with the Spring launch of the POCA Advisory and Asset Forfeiture [PAAF] practice group at QEB Hollis Whiteman which we are excited to grow.

Only a few years ago the words “proceeds of crime” were typically considered synonymous with post-conviction confiscation orders but the POCA landscape now involves so much more. The use of civil POCA powers is on the rise, the proportionality of AML regulation is currently being debated and though the detail is light, AML supervision is set to be radically reshaped.

Our dedicated PAAF practice group is designed to deal with the full spectrum of matters arising under the Proceeds of Crime Act 2002 and Money Laundering Regulations. As part of Chambers’ Business Crime offering, the group provides advice on sensitive commercial matters with a POCA angle, AML reporting and investigations as well as representation in freezing, forfeiture and other civil proceeds of crime applications. It can also assist with matters where sanctions and POCA issues overlap.

This newsletter provides a snapshot of recent AML and POCA news and is a collaborative effort of several members of Chambers for which we are very grateful. We hope it is of interest to those needing to cut through the technicality and acronym-happy world of AML regulation and keep up to date with changes likely to impact policies and reporting duties. For the seasoned POCA practitioner it provides a space to share thoughts on novel or emerging POCA points, with each edition featuring a viewpoint for your consideration (or critique!). In our inaugural issue we consider the recent and prospective changes to corporate criminal liability as they impact upon the roles of an organisation's Money Laundering Reporting Officer or compliance officer.

Please do share this newsletter with your networks if it is of interest and let us know if there is any feedback to help us plan future quarterly issues. We very much look forward to welcoming you at events hosted by the PAAF group in the coming months.

Compiled by:
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Recent noteworthy AML and POCA developments in the UK and beyond.

11 March 2026

The Financial Action Task Force (FATF) publishes [report](#) on the risks of Offshore Virtual Asset Service Providers (oVASPs). oVASPs are created under the laws of one jurisdiction but provide services in another and can be used to move criminal proceeds. Differences in the AML regulation of oVASPs between jurisdictions are being exploited and the report addresses red flags for non-compliant oVASPs and provides guidance on how firms can mitigate the risks.

25 February 2026

Home Office publishes [Unexplained wealth orders annual report 2024 to 2025](#), in line with the Secretary of State's annual reporting requirements.

The report confirms that five UWO applications were made between 15 May 2024 to 15 May 2025, all of which were granted. This represents a small increase on the two UWOs applied for in each of 2022-23 and 2023-24. This year was the first in which an agency other than the NCA applied for an UWO, namely the SFO.

9 February 2026

HMRC publishes [latest report on MLR 2017 non-compliance](#).

Lists businesses that have not complied with AML requirements and penalties imposed in 2024 to 25. The list includes a noticeable proportion of art galleries and other art market participants for failing to register for AML supervision.

4 March 2026

FCA publishes [2024/25 supervisory report](#) of the Office for the Professional Body Anti-Money Laundering Supervision. The report summarises OPBAS's latest findings and identifies areas where anti-money laundering supervisors can improve. OPBAS is concerned that some Professional Body Supervisors still take an "overly member-centric approach" which can hinder robust AML supervision. This comes amid proposals announced by the Treasury last October to transfer AML supervision of professional services to the FCA.

18 February 2026

SRA updates [Your AML Obligations' guidance page](#).

Includes link to the SRA's [Sectoral Risk Assessment](#) for AML and Terrorist Financing (updated 4 February 2026) and the [NCA's new guidance on submitting a SAR and understanding DAMLs](#) (published in December 2025) which should be referred to before any SAR is submitted. See page 9 of the latter for specific details that must be included when seeking a DAML.

5 February 2026

[R \(Eslami\) v. The Commissioners for His Majesty's Revenue and Customs \[2026\] EWHC 219 \(Admin\)](#).

Judicial review of refusal to vary an account freezing order under POCA s303Z4 to allow reasonable living expenses. One of the grounds was inadequate reasons but the case also sets out the various criteria for variation [§24] and rehearses relevant case law as to how each criteria

3 March 2026

FATF issues [new report](#) on illicit finance risks linked to criminals' misuse of stablecoins, particularly through peer-to-peer transactions via un-hosted wallets.

The report also calls on countries to fully implement Recommendation 15 of the FATF Standards to ensure that stablecoin issuers, intermediary VASPs, financial institutions and other relevant participants in stablecoin arrangements are subject to clear AML and CTF obligations.

10 February 2026

Council of Europe's anti-money laundering body MONEYVAL publishes [report examining the use of virtual assets and virtual-asset service providers in the laundering of criminal proceeds, terrorist financing and sanctions evasion](#).

The report finds that, overall, there has been significant progress in developing regulatory and supervisory frameworks for virtual assets and virtual-asset service providers, as well as in international cooperation to tackle financial crime. However, it also highlights ongoing challenges, particularly the need to prevent virtual assets being used to circumvent targeted financial sanctions.

should be approached (including as to burden and standard of proof on each). Also considers whether a statement of assets is a mandatory requirement of an application to vary [from §32 onwards]: "It will be obvious from my judgment that an applicant seeking an exclusion from an account freezing order is required to make full disclosure of all the assets that are available to them. The precise form in which they do so may not be material" [§43].

4 February 2026

Joint Money Laundering Steering Group (JMSLG) publishes revisions to Part 1 of its AML Guidance.

The amendments affect MLRO standing, effective monitoring of AML controls and subject access requests where there is an underlying Suspicious Activity Report. The amendments are pending HM Treasury approval.

29 December 2025

NCA publishes SARs Annual Report covering April 24 – March 25.

866,616 total SARs, which is slightly reduced from the previous year, likely due to changes to the 'threshold' amount for reporting. Of these, there were circa 57,000 DAML requests which resulted in property of £382 million initially 'denied'. This refers to property that was the subject of a DAML that was either refused or subsequently granted by the NCA. Banks account for 85% of reports and the legal sector 0.4%. Although not AML regulated, the education sector is responsible for 0.05% of reports.

2 December 2025

Property (Digital Assets etc) Act 2025 comes into force.

In its sole substantive provision, the Act confirms that an item is not prevented from being the object of personal property rights merely because it does not fit within the two traditional categories of thing in possession or thing in action. In effect, the Act creates a third category of personal property intended to encompass digital or electronic assets such as cryptocurrencies, crypto-tokens and non-fungible tokens. The Act represents the legislature adapting to the modern age, removing any remaining doubt that digital assets should be recognised and protected as personal property and holds implications for 'property' under POCA.

27 January 2026

Court of Session hands down Advocate General for Scotland v McCartney & Scottish Ministers [2026] CSIH 5 on the construction and application of section 303Z18 POCA (compensation claims by those subject to account freezing orders).

Two of M's bank accounts had been subject to AFOs for 11 months but, ultimately, forfeiture was not pursued against him. M applied under section 303Z18 for just over £100,000 compensation, asserting that the AFOs had caused him financial loss

14 December 2025

UAE overhauls AML legal framework

with the introduction of Law No. 10 of 2025, Concerning Combating Money Laundering, Terrorism Financing and the Financing of Proliferation which entered into force with Cabinet Decision No 134 of 2025. Changes have been introduced ahead of the UAE's next FATF Mutual Evaluation in mid 2026 and include lowering the mental threshold for principal money laundering offences to an objective standard, a new offence directed at misuse of bank accounts by a third party and personal liability for law firm senior managers for money laundering.

26 November 2025

Law Society publishes Money Laundering Risks and Threats,

a 19-item list aimed at helping solicitors and law firms to identify current and emerging money laundering risks. The list covers modern issues (such as AI/deepfakes and cryptocurrency) as well as more traditional risks (such as trade-based money laundering, conveyancing fraud and postal interception).

as well as distress and inconvenience. In refusing M's application, the Court emphasised [§36] the high threshold to be met in demonstrating that 'exceptional circumstances' applied. In determining exceptionality, regard may be had to the relevant authority's conduct of the forfeiture investigation [§42] but "[g]enerally, there should be no liability for compensation where an enforcement officer has acted honestly, reasonably, properly and on grounds that reasonably appeared to be sound" [§38].

12 December 2025

The Financial Conduct Authority fines Nationwide Building Society £44 million for inadequate anti-financial crime systems and controls between October 2016 and July 2021.

During this period, Nationwide had ineffective systems for keeping up-to-date due diligence and risk assessments for all its personal current account customers and for monitoring their transactions. In one serious case, Nationwide missed opportunities to identify a customer using personal current accounts to receive fraudulent Covid furlough payments totalling £27.3m over a 13-month period.

14 November 2025

DPP v O'Connor & Ors [2025] EWHC 3000 (KB) - a civil recovery order was made in respect of cryptocurrency held in accounts for the benefit of the First Respondent.

The Court reaffirmed that cryptocurrency can be recoverable property and considered it to be a 'convenient' method of money laundering [§110]. It was contemplated that there would be victim compensation pursuant to an asset sharing agreement that would be requested by the US Department of Justice.



MLROs as 'Senior Managers'

Much Ado about Nothing (for now)?

It is reasonably arguable that MLROs could be senior managers under the ECCTA extension of corporate liability. As things currently stand, the practical impact of this may be limited given the absence of certain money laundering reporting offences from the list of applicable economic crimes. However, were the senior manager test to be widened to other criminal offences as suggested in Clause 213 of the Crime and Policing Bill 2025, the designation of an MLRO as a senior manager could prove to be much more significant.

1. The omission of money laundering from the failure to prevent fraud offence under section 199 of the Economic Crime and Corporate Transparency Act 2023 [ECCTA] was explained on the basis that there was already extensive regulation in this area¹.
2. The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 [MLR] specifically define relevant persons caught by the regulations as including certain institutions and firms (rather than individuals) for example credit institutions and financial institutions². MLR r86 creates a criminal offence by a person contravening a relevant requirement imposed by those regulations. Corporate liability for this offence is thereby inbuilt by design³.
3. The MLR r86 offence is already able to catch conduct which, in effect, amounts to a failure to prevent money laundering. For example, under r33 a firm must carry out enhanced Customer Due Diligence measures in certain circumstances. The duty is directed at the prevention of money laundering and the failure to discharge the duty will be a criminal offence even if no money laundering has actually occurred⁴. There is a similar defence to the failure to prevent fraud offence, namely where the person (company or individual) has taken 'all reasonable steps and exercised all due diligence to avoid committing the offence': MLR r86(3).
4. However other parts of the MLRs have a potential knock-on effect on corporate liability for criminal offences outside those regulations, based on the **senior manager test** introduced by section 196 of the Economic Crime and Corporate Transparency Act 2023 [ECCTA].
5. The MLRs require those within the regulated sector to appoint both:
 - (i) A nominated officer (Money Laundering Reporting officer or **MLRO**) to receive disclosures for possible submission to the National Crime Agency (NCA) under Part 7 of the Proceeds of Crime Act 2002 [POCA] and Terrorism Act 2000: MLR r21(3).

- (ii) A member of the Board (or equivalent management body) or member of the **senior management team** as being responsible for the practice's compliance with the regulations (Money Laundering Compliance Officer or **MLCO**): MLR r21(1)(a).

6. The MLRs define **senior management** as an officer or employee with 'sufficient knowledge of the relevant person's money laundering, terrorist financing and proliferation financing risk exposure, and sufficient authority, to take decisions affecting its risk exposure': MLR r3(1).
7. The MLRs also define 'manager' as 'a person who has control, authority or responsibility for managing the business of that firm' **and deems this definition to include the MLRO**: MLR r3(1).
8. MLR r19(2)(b) states that the required policies, controls and procedures adopted by a relevant person must be 'approved by its **senior management**'.
9. Section 196 of ECCTA imposes corporate criminal liability where a senior manager acting within 'the actual or apparent scope of their authority' commits one of the 'economic crimes' listed in Schedule 12 (or is a secondary party thereto).
10. One of the key aspects of this form of corporate liability is that unlike the failure to prevent model, it does not provide the corporate with a reasonable procedures type defence as of right⁵. Senior manager corporate liability is much stricter. A corporate will be exposed to criminal liability if the senior manager commits one of the relevant economic criminal offences.
11. The Schedule 12 list of economic crimes includes:
 - (i) substantive money laundering offences under sections 327-329 POCA.
 - (ii) failure to report suspicion of money laundering in the regulated sector under section 330 POCA⁶.
 - (iii) contravention of a relevant requirement under MLR 86.
12. Under section 196 a **senior manager** is defined as:

Any individual who plays a significant role in

 - (i) the making of decisions about how the whole or a substantial part of the activities of the body or partnership are to be managed or organised, or
 - (ii) the actual managing or organising of the same.

¹ Government Fact Sheet

² As defined under MLR r10. See further examples under MLR r11 and r12 defining auditors and independent legal professionals as covering firms and individuals.

³ See §8-9 of the [sentencing remarks](#) in *R (FCA) v NatWest Bank plc* 13 December 2021 for the like offence under earlier regulations.

⁴ CPS Guidance on Money Laundering Offences: "Note that it is not necessary to prove Money Laundering in order to prosecute a breach of MLRs."

⁵ For a detailed discussion about this and more see [Reforming Corporate Criminal Liability: Is the 2023 Act Too Much, or Not Enough?](#) by Professor Jeremy Horder.

⁶ As well as the tipping offence under section 330A POCA (regulated sector). The failure to disclose offences applicable only to nominated officers are not caught by section 196.

13. ECCTA's explanatory notes provide the following key information:

§825 ...A senior manager is an individual who plays a significant role in the making of decisions about how the whole or a substantial part of the activities of the body are to be managed or organised, or the actual managing or organising of the whole or a substantial part of those activities. **This covers both those in the direct chain of management as well as those in, for example, strategic or regulatory compliance roles.** "Substantial part of the business" relates to the importance of the activity over the operations of a business as a whole.

§826.... "senior management" is not limited to individuals who perform an executive function or are board members, it covers any person who falls within the definition irrespective of their title, remuneration, qualifications or employment status.

14. Given these statements and the MLR provisions set out above, it seems reasonably arguable that a body's MLRO and MLCO could fall under the ECCTA definition of **senior manager**.

15. At first blush that seems significant because a senior manager who fails to raise an internal report when there are reasonable grounds to suspect money laundering will have committed an offence contrary to section 330 and in so doing will expose their organisation to criminal liability. However, the actual impact of such a classification is arguably quite limited for a number of reasons:

(i) The section 330 failure to disclose offence cannot apply to MLROs (not least because the offence is not committed where the person in the regulated sector makes a disclosure to the MLRO and MLROs are intended to be caught by other failure to disclose offences specific to them). Hence the MLRO being a senior manager would be of no relevance. Section 196 corporate liability for the 330 offence would only apply to a senior manager who was not the MLRO.

(ii) Section 196 does not cover the two failure to disclose offences applicable to the MLRO: sections 331-332 POCA. This is where MLRO as senior manager would have had the most effect on corporate liability but they are not currently included.

(iii) Scenarios where a reasonably competent MLRO would have committed a section 327-329 offence and, in so doing, expose their organisation to criminal liability if they are a senior manager, would seem limited given the MLRO would have to possess actual knowledge or suspicion of criminal property but not sought a Defence Against Money Laundering [DAML].

(iv) Corporate liability for the offence of breaching an MLRs requirement under r86 is already well catered for under those regulations. After all, NatWest was convicted of breaches of MLR requirements well before ECCTA.

16. However, the classification of an MLRO as a senior manager may become much more significant in the future and is something to watch out for:

(i) If the stealth like progress of the extraordinary extension of senior manager based corporate criminal liability to all criminal offences (proposed under clause 213 of the Crime and Policing Bill 2025) continues, a corporate would become liable for a failure by its MLRO to disclose suspicion of money laundering either under section 331 or 332.

(ii) Whilst those offences give the individual MLRO a 'reasonable excuse' exemption from liability, corporate liability via the senior manager test does not benefit from any reasonable procedures type defence (as is available for the criminal offence under MLR r86 and corporate failure to prevent both fraud and bribery).

17. Any thoughts on the issues raised in this article are always gratefully received.

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