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Message from the head of the UKFIU

Vince O'Brien, Deputy Director

Welcome to issue 11 of the UKFIU's magazine *SARs In Action*. We speak with Graeme Biggar, Director General of the National Economic Crime Centre (NECC), who is also the subject of our May podcast (see page 13 for details). In this article Graeme talks about the work of the UKFIU, changes coming to the unit and the SARs regime generally and the value of SARs in tackling all criminality.

We take a look at how SARs are used to tackle intellectual property crime and the work that Trading Standards does to combat the fraudulent sale of counterfeit goods and pirated content. We also hear from the Crown Prosecution Service on their new money laundering offences guidance, which makes it clear that it's possible to charge someone under the Proceeds of Crime Act 2002 even though it cannot be proven that money laundering was planned or undertaken. This guidance should provide clarity for prosecutors and law enforcement, and remove some of the historical barriers to making use of this legislation.

We speak with the new NCA SARs Programme Director on the latest with the SARs Reform Programme, a multi-year programme that supports the delivery of the UK's Economic Crime Plan. There are some exciting changes taking place for all regime stakeholders - and still to come - and this is the most comprehensive public update yet.

We also hear from the legal sector in an article from the Chair of the Law Society's Money Laundering Taskforce, on their use of SARs and some of the complexities faced by their sector.

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Who is this magazine aimed at?

- **All law enforcement; this includes senior investigating officers, front-line police officers and police staff**
- **Reporters**
- **Regulators**
- **Supervisors**
- **Trade bodies**
- **Government partners**
- **International partners**

We'd love to hear what you think of the publication, what topics you'd like us to consider and we're always open for possible articles/collaborations.

Previous issues of this magazine are available on the NCA website.

Please send any feedback to **ukfiufeedback@nca.gov.uk**

Updates can also be found on Twitter at [NCA_UKFIU](https://twitter.com/NCA_UKFIU) and via our LinkedIn page.

Opinions expressed in articles provided by partners are not necessarily the view of the UKFIU/ NCA. The UKFIU exercises the right to edit submitted articles.

Intellectual property crime

Matthew Knowles
Trading Standards Officer
Intellectual Property Investigations
Manchester Trading Standards

Intellectual property crime, which includes the fraudulent sale of counterfeit goods and pirated content, has never been more prolific. The Organisation for Economic Cooperation and Development estimates that between 2017-19 the value of this trade rose from \$461 to \$509bn, equating to 3.3% of world trade. It is estimated to be the single biggest transnational crime (Global Financial Integrity, 2017).

As well as traditional luxury goods such as handbags and apparel, counterfeit pharmaceuticals, tobacco, foods and drink, cosmetics, automobile parts and household electrical goods pose a greater threat to human health. The illicit trade also causes a severe detriment to the economy. In the UK and the European Union it's estimated that, between 2013-17, €83bn was lost in legitimate sales, resulting in 671,000 job losses and €15bn per year lost in tax revenue.

Local Authority Trading Standards (TS) teams, alongside partners including the Anti-Counterfeiting Group, the Police Intellectual Property Crime Unit and UK Border Force are often at the coalface in tackling problem. One of the most effective tools used against counterfeiters is the Proceeds of Crime Act 2002 (POCA). Offences under the Trade Marks Act 1994 and the Copyright, Designs and Patents Act 1988 are listed as lifestyle offences under schedule 2 of POCA, and all proceeds made from the sale of counterfeit goods can be considered as criminal property.

All TS teams should have access to an accredited financial investigator who will check the SARs database via the UKFIU at the outset of any money laundering or confiscation investigation, which often provides vital intelligence. One example includes an investigation into an Internet Protocol Television supplier. The SARs data identified several connected bank accounts in the name of individuals which were operated by the defendant and used to purchase previously unknown properties.

There are also criminal enterprises involved which meet the United Nations' definition of an organised crime group. The global supply chain allows these groups to split production, assembly and packaging among multiple countries to evade law enforcement. They are explicitly linked to other crimes such as illegal employment, tax evasion and money laundering. These groups have established themselves in physical trading areas which have become notorious for wholesale and retail supply of counterfeit goods. Weekly hundreds of thousands of pounds worth of criminal proceeds will be generated from the sale of counterfeit goods in such areas alone.

Tracing illicit funds from such areas can be challenging for local authorities and a multi-agency approach and financial intelligence are essential to identify the individuals at the top of the hierarchy. A landmark case taken by Lincolnshire TS in 2019 saw a landlord prosecuted under section 328 of POCA. Although the landlord had no day-to-day involvement with the business operated from his premises, he was repeatedly warned that illicit alcohol and tobacco was being sold from his premises, but continued to accept rental payments (criminal property).

National Economic Crime Centre



Graeme Biggar
Director General of the NECC

An indepth interview with Graeme features in episode 6 of the UKFIU podcast, available on ukfiu.podbean.com and other streaming platforms. Don't forget to subscribe to be made aware of new podcasts. Further details on page 13.

The National Economic Crime Centre (NECC) at the NCA is a multi-agency centre with representatives from all the major organisations in the public sector involved in fighting economic crime. What we're trying to do is to get all of these organisations to work really well together, and with the private sector, to affect a step change in the fight against economic crime. It's not about us doing investigations or gathering intelligence ourselves – it's about providing bringing these organisations together and making them more than the sum of their parts.

The UKFIU plays an important role in the NECC and sits at the heart of the SARs regime, which is one of the richest intelligence sources for law enforcement in this country. There is huge power in the SARs regime if we can use the data and the analysis and the expertise of the UKFIU to help inform the priorities of the NECC and vice versa.

The more feedback we can give out to the regulated sector from the UKFIU, the more really good cases we can work through, the more intelligence sharing we can do, the more we can do to improve IT systems and target harden to reduce the risk of crime in the first place – all of this improves our relationship with the private sector and the UKFIU is absolutely at the heart of it.

To give an example, during the first months of COVID-19 we looked really closely at SARs that were coming in related to COVID. We worked that data really hard and discussed it weekly with representatives from 30 different organisations in a Fusion Cell, which the NECC set up and the UKFIU was a part of. We did a number of things in that Fusion Cell but one part was looking at the aggregation of SARs data coming in and trying to see what that told us. It gave 'live time' feedback to the banks and was a really powerful example of what the UKFIU can do at its best when we join up the NECC, the banking sector and the rest of government.

In relation to SARs, the UKFIU received over 570,000 SARs last year (a 20% increase on the previous year) and saw an 81% increase in defence requests – over 62,000. These are massive increases and we have to adapt to them. One thing we need to look at is why there has been such an increase. Is it because there's more money laundering happening? Is it that reporters have got better systems so they're identifying more? Is it that the levels of risk have changed people's tolerance for

having a suspicion? We need to look at that and think about whether it's the right amount of SARs coming in.

There will a lot of people, in the banking sector in particular, who say that they are reporting many more SARs than they think they should; that these are low value SARs and that they would be better spending the same amount of effort in putting together more detailed packages around things that are higher volume, are higher value and potentially higher threat. So there's work to be done there.

So there are a number of things we can do to look at the volume of SARs so that it focuses on the ones that are most important. We have to make some real changes and improvements to the way we manage that within the UKFIU and we've already embarked on that. We've changed our processes so we can look at Defence Against Money Laundering (DAML) SARs more quickly and get them out to the right bit of law enforcement. We've put more people into the UKFIU and we are putting new IT in place to enable us to manage that volume better. These tools will really draw out the value of SARs, spotting indications of vulnerability, spotting patterns and networks, and enabling us to do the kind of analysis that we'd all love to and aspire to do.

We're going to provide a better SARs portal to law enforcement so that they can access them and search across them better – and also increase the number of people out there who are doing it and provide better feedback to them, again on what we are seeing. Similarly we're looking at improving the overall guidance that comes out from the Home Office, the legal framework for this, so that we can all be as effective as possible. These are all changes being looked at under the SARs Reform Programme (see page 6), which is funded by the Home Office and the banks. SARs Reform will also mean that we can provide better feedback to the different regulated sectors on their SARs, on the trends we are seeing, so that they can better pinpoint suspicion and report the things that matter.

Whilst the volume of SARs is increasing, what's most important is the benefit we get from having those SARs. Last year we restrained or removed from potential criminals £172m as a result of DAML SARs, over three times more than two years before. And from that, £100m was from investigations that were entirely new to law enforcement – they only started because of that SAR.

My main message to the regulated sector is to keep thinking about your responsibilities in relation to SARs, under the Money Laundering Regulations, and be really focused on that value that is being added – and be confident that we are working really hard to make the system work better for you. For law enforcement my message is that the SARs regime is an amazing intelligence resource. We have a fairly unique model in the UK of having the data open to law enforcement, so please take advantage of it.

Finally I'd like to give a big thank you to the UKFIU for the work that it's doing. It's fantastically hard work at times and the volume is enormous. But we're at the stage where we are implementing new changes and we're really getting there. But they are doing great work and they should all be really proud of it.

SARs Reform Programme



Zoe Scotton-Pinhey
NCA SARs Programme Director

The SARs Reform Programme, led by the Home Office and the NCA, has transitioned into a new phase of delivery in recent months. With a new technology partner onboard and the implementation of the UKFIU Target Operating Model on-going, here is an update.

For those less familiar with SARs Reform, this is a multi-year programme that supports the delivery of the UK's Economic Crime Plan by ensuring that the SARs regime: protects the integrity of the regulated sector; supports the disruption of money laundering, terrorist financing and predicate offences; and operates effectively and efficiently across the public and private sectors.

At the NCA we are driving forward two core parts of the programme. One, an IT Transformation that aims to improve the reliability, efficiency, effectiveness and usability of SARs technology for public and private users. Two, the UKFIU Expansion is implementing a new operating model and an uplift of 74 officers for the UKFIU. These changes will enable the UKFIU to meet operational needs and enhance engagement and feedback across the regime to improve the quality of SARs submitted by reporters and enhance utilisation and exploitation of SARs by partner organisations.

Across the IT transformation and the operating model implementation our focus is on:

- **Uplifting capabilities:** Establishing and uplifting the capabilities that the UKFIU needs to improve intelligence outcomes at a tactical and strategic level, supported by improved SARs data quality and enhanced data analysis tools delivered through the SARs IT Transformation.
- **Creating capacity:** An uplift in capacity through welcoming new skilled officers into the UKFIU and providing a greater level of agility and flexibility to support operational needs, combined with enhanced technology to improve the efficiency of the SARs process across the regime.
- **Being user centric:** Putting the user front and centre, with a more reliable digital service with an improved user interface that enhances the system experience for all, further supported by dedicated UKFIU teams to improve education and feedback on SARs utility and exploitation.
- **Preparing for the future:** Future-proofing the SARs regime through new technologies that enable iterative development, greater data insights that support operational planning and through continuing to build and evolve the skills and experience of the UKFIU in the future.

In recent months we have welcomed over 14 new recruits into the UKFIU who are already making a difference in critical operational, engagement and support teams. New teams, including the SARs Exploitation Team and the Reporter Engagement Team, have been established to provide greater support to the regulated sector that report SARs and to our policing and government partners in the exploitation of SARs data. Over the next 24 months we will welcome a further 60 recruits into the UKFIU as we continue to build the capacity and capabilities of these teams.

In respect of the technology transformation, critical readiness activities are underway. The SARs IT Transformation will see multiple organisations that report a high volume of SARs transitioning to a new bulk SAR submission method. We have been working with these organisations to commence testing activities for this new service. Work for an improved [SAR Online](#) portal has also progressed with our technology partner. The new online SAR submission service aims to improve the user experience and enhance the operational utility of SARs submitted to the NCA.

For the UKFIU and our policing and government partners, improvements to SAR technology aim to enhance the user experience of the system and the ability to exploit SAR data for law enforcement action, leading to improved disruption outcomes, timelier identification of vulnerable victims and increased asset recovery opportunities.

The NCA is working with reporter and partner organisations in readiness for the coming technology changes. We have set up several Change Networks across both communities to enable live two-way information sharing on a monthly basis. The team also leads more frequent regular technical drop-in sessions to answer pressing questions from SARs reporters and partner organisations. We encourage you to make use of these forums to ensure you are ready for the IT changes.

We look forward to updating the *SARs in Action* magazine over the coming months as we share more information about how this change will impact participants of the regime across the public and private sectors.

For more information on our communication channels, such as the Change Networks, or for further questions, please contact the SARs IT Transformation Team at SARsITTransformation@nca.gov.uk

SARs Reform Programme

Money laundering offences guidance



Sonia Irim
Senior Policy Advisor
(Economic Crime)
Crown Prosecution Service (CPS)

The CPS is committed to securing justice in cases involving money laundering where there is harm to the taxpayer, businesses and individuals, and we are committed to recovering the proceeds of crime. In 2019/20 CPS recovered over £100m from criminals' ill-gotten gains.

The CPS has now reviewed its money laundering legal guidance to make clear that it is possible to charge someone under section 330 of the Proceeds of Crime Act 2002 (POCA) even though it cannot be proven that money laundering was planned or undertaken. On 2 June we published our revised [Money Laundering Offences Legal Guidance](#) for prosecutors, which makes clear this change in approach.

Section 330 of POCA 2002 has been the subject of longstanding debate after comments from the then Attorney General Lord Goldsmith in the House of Lords during the passage of the bill in Parliament. In practice, the debate around section 330 has focused on whether there is a need to prove that money laundering was 'planned or undertaken' in cases where the prosecution alleges a person suspected (or had reasonable grounds for suspecting) that a person was engaged in money laundering – the 'suspicion limb' of s.330 (see next paragraph).

Previously our guidance on s.330 simply stated that "cases where this offence is being considered should be referred to the Director's Strategic Policy Advisor at CPS Headquarters". Our revised guidance now makes clear the distinction between where the suspect (a) knows or ought to know (the 'knowledge limb'), and (b) suspects or ought to suspect (the 'suspicion limb'), when it comes to determining whether money laundering needs to be proven. It is only in relation to the latter that this element of the offence is not required.

We believe our revised guidance will provide much sought clarity for prosecutors and law enforcement on charging under s.330 and thereby removing the historical barriers to making use of this piece of law. While this change in approach may lead to more action being taken against the enablers of crime, it is not envisaged that there will be a significant increase in s.330 prosecutions. The CPS already prosecutes s.330 alongside other POCA offences and will continue to work closely with law enforcement agencies on any cases that may come our way under s.330, standalone or combined.

Graeme Biggar, Director General of the National Economic Crime Centre, said: "We welcome this change in CPS guidance which provides much needed clarity. The UK encounters enormously complex multi-jurisdictional money laundering schemes which rely on the services of UK based professionals so it is absolutely right that we take direct action against the small proportion who turn a blind eye to the activities of their clients.

"This change in guidance will enhance the financial investigator's toolkit, and help bring complicit enablers to justice, even where the underlying money laundering can't be proven."

Lisa Osofsky, Director of the Serious Fraud Office, said: "The SFO welcomes this revised guidance, which will help law enforcement partners across the country to protect our economy and ensure there are no safe harbours for criminals and their dirty money. Our Proceeds of Crime Team works tirelessly to trace, chase and recover criminal assets in this country and beyond, so we are pleased to have been able to consult with and support our partners on this important change."

Our hope is that this clarity will encourage those who work in the regulated sector to disclose any suspicion of money laundering to the police and help bring criminals to justice.



The legal profession and SARs



Amasis Saba
Chair of the Law Society's Money Laundering Taskforce

SARs have made their way into the public's consciousness over the past few years as regulated professions, such as solicitors, work with the NCA to tackle financial crime and protect the public. The UKFIU saw a record number of SARs – 573,085 – during 2019/2020, up 20% on the previous period, and received 61,978 DAML requests. Of these numbers only 3,006 SARs were from the legal sector, of which 1,853 were DAML requests.

There have long been concerns from some that the legal sector under-reports which, following a superficial glance at the figures above, might be considered understandable. However, a closer look reveals a different picture. Often this misunderstanding in relation to the legal sector's SAR numbers belie a related misunderstanding of how law firms operate - what they do and how they do it.

Legal sector scenarios

A new potential client, Mr X, walks through the door of High Street Law LLP (HSL) which commences client take on procedures. In the legal sector, a firm's interaction with potential clients is normally much slower compared to the high-speed affair of the financial sector. A gradual process seeks to understand the potential client's needs and wants, their background, knowledge and engagement terms.

This normally allows for a greater level of consideration with many law firms not taking on clients for a vast number of reasons. This can often include clients failing a firm's reputational risk appetite. In this case our new client does not pass HSL's customer due diligence process; nothing they can point to specifically, just a belief which is more than fanciful that the potential client, their background and/or source of wealth seems dodgy.

At this point a bank would likely file a SAR. However, HSL must consider if the information which has given rise to a suspicion came to them in confidence from Mr X for the dominant purpose of seeking legal advice. In other words, is it protected by privilege? If so, they cannot file a SAR.

The next day Mr Y, an existing client of HSL for some time, enters HSL seeking to carry out a transaction. But something seems amiss. The information from Mr Y about the counterparty doesn't make sense: the deal 'smells off'; the other side is changing advisors midway through the deal; and the structuring or jurisdictions involved are outside of HSL's expertise – so HSL politely declines to act on this mandate for Mr Y.

At this point a bank, if similarly aware, would likely file a SAR. However, HSL must again consider whether a SAR is appropriate. If they're not acting on the matter, they're not involved in a principal money laundering offence and do not require consent. So do HSL have to make a SAR to prevent a failure to report offence? Possibly, but again, the information is protected by privilege or privileged circumstances.

HSL has again reaped the internal benefits of the slower pace of legal transactions which allow for more careful review and vetting, and more intimate professional advisor relationship with clients which permit more careful consideration of the facts. This is a far cry from the high-speed electronic transfer processes of the retail banking world and their automated monitoring systems.

In our final scenario, Mrs Z has been an existing client of HSL for 40 years. She's seeking help in formalising the affairs of a bowls club for which she's the secretary. After taking on the club, HSL starts work and realises that it put up a CCTV camera two years ago but hasn't registered with the Information Commissioner's Office – a potential criminal offence. Since the club's finances are awash with the proceeds of crime, all of the club's assets may be considered tainted by criminal property.

HSL explains to Mrs Z that they can only proceed with corporate work (which may move any of these assets) if HSL and the club seek consent from the NCA to proceed. Mrs Z is at first sceptical but agrees after the consequences are explained.



The silver-lined future?

These examples represent some of the frustrations of the legal sector when the regime is viewed solely as a numbers game. There is little recognition for the fact that a lot of the work of the sector goes unsung because work and potential clients are turned away but, very correctly and subject to careful review, are not reported due to privilege. At the same time, valuable resources are wasted with reports which provide next to no value to law enforcement to ensure technical compliance.

The situation isn't perfect; there will always be that tiny portion of the sector (as with any profession) that aligns itself with criminal elements. I'm grateful that the evidence continues to suggest this is genuinely the thinnest sliver. Neither will we always get it right.

Fortunately, it's widely recognised by the UK government, law enforcement, the Solicitors Regulation Authority and the UK's National Risk Assessment that the vast majority of the sector is trying its best to do the right thing.

The good news is there is appetite for change. Building on the progress of the Economic Crime Plan, the UK government is reviewing the effectiveness of the SARs regime and considering changes. This includes consideration of how to ensure the DAML regime is fit for purpose such that it meets the needs of UK PLC, while protecting its reputation and providing valuable intelligence to the NCA.

The Law Society has actively participated in the SARs change network, guidance working group, advisory group and the strategic reform programme, where we are representing the interest of our members by shaping policy around anti-money laundering and financial crime compliance requirements.

Regardless of the pace of change, the legal sector cannot be complacent or naïve. There are criminals across the country buying property, establishing trusts, using corporate vehicles and engaging the legal sector to help them.



UKFIU podcasts

UKFIU podcasts are currently available at various streaming sites ukfiu.podbean.com, Apple Podcasts, iTunes, Amazon Music, Google Podcasts, TuneIn and Pandora.

EPISODE 6: GRAEME BIGGAR

Graeme Biggar, Director General of the NECC, discusses: the work and remit of the NECC, particularly with regards to the UKFIU's position in it; the headline figures from the 2020 SARs Annual Report; plans for the future of the UKFIU and the SARs regime; and how SARs can make a big difference in cutting serious organised crime.

EPISODE 5: COUNTY LINES

County Lines describes gangs and organised criminal networks involved in moving illegal drugs across the UK, and frequently exploiting children and vulnerable adults. In this podcast, we look at how SARs are used to tackle this criminality, the UKFIU's work to identify this threat and work undertaken by the National County Lines Coordination Centre to enhance the law enforcement response.

EPISODE 4: CHILD SEXUAL ABUSE

This podcast focusses on a specific international project led by the UKFIU alongside the financial intelligence units of Australia and the Philippines. This project focused on online child sexual abuse and exploitation and on the financial flows associated with it. Panellists feature representatives from the UKFIU, the Australian and Philippines FIUs and the NCA's International Liaison Officer network.



By the NCA's UK Financial Intelligence Unit



EPISODE 3: GOOD QUALITY SARs

In this episode we hear from law enforcement agencies and get their views on what, in their opinion, makes a good quality SAR. We get their thoughts on the value of such financial intelligence and what reporters could be doing to help maximum benefit to law enforcement.

EPISODE 2: MODERN SLAVERY

This podcast looks at modern slavery and human trafficking and the importance of SARs information in this. Reporters are in a unique position to help combat this crime. Panellists from the UKFIU and the NCA Modern Slavery Human Trafficking Unit discuss what assists law enforcement and helps to safeguard victims.

EPISODE 1: SARs FAQ

The UKFIU's first podcast focuses on the SARs Frequently Asked Questions document aimed at helping reporters submit good quality SARs to provide maximum benefit to law enforcement. Reporters share their perspectives and experience.

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