

TERMS OF REFERENCE

- 1.1 The Law Commission has agreed with the Home Office to review the law on confiscation in Part 2 of the Proceeds of Crime Act 2002. The law on confiscation enables the state to deprive offenders of the benefit of their criminal conduct. The review will aim to improve the process by which confiscation orders are made, ensure the fairness of the confiscation regime, and optimise the enforcement of confiscation orders.
- 1.2 The review will analyse and address the most pressing problems with the law on confiscation, including the irregular compensation of victims in confiscation proceedings; the frequent imposition of unrealistic confiscation orders; the ineffective incentives and sanctions of the confiscation regime; the interplay between civil and criminal investigations under POCA, the complexity of the relevant legislative provisions and related case law; the role of restraint and the insufficient enforcement powers of magistrates' courts and Crown Courts.
- 1.3 The review will also explore and assess a range of solutions to these problems. It will consider alternatives to the current value-based regime, options for a specialist forum for confiscation proceedings, and new ways of preventing the dissipation of assets. The review will also aim to simplify, clarify and modernise the law on confiscation.
- 1.4 The Law Commission will produce a report making both recommendations for the amendment of the current legislative regime and recommendations for the creation of a new confiscation regime through legislation. The report will also consider non-legislative avenues for reform.