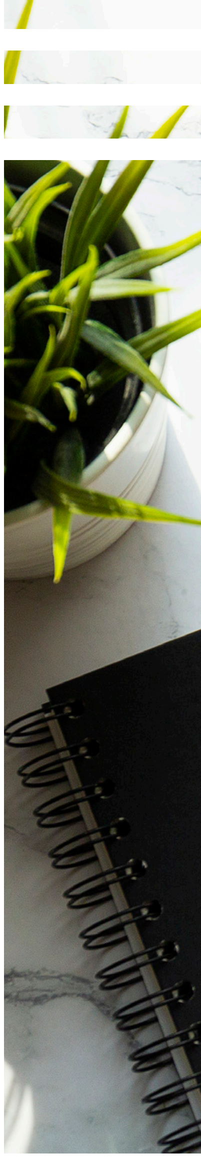
ECONOMIC & FINANCIAL CRIME BUREAU GUERNSEY

ANNUAL REPORT

2021



Director's Foreword

In January 2021, I was appointed by the Committee for Home Affairs to establish an independent investigating body to strengthen the Bailiwick of Guernsey's response to financial crime. Tackling the primary financial crime risks faced by the Bailiwick and improving its effectiveness to combat money laundering and recovering the proceeds of unlawful conduct were rightly seen as imperatives to help Guernsey be as prepared as it can be for the 2024 MONEYVAL[1] evaluation and to deal with these risks thereafter.

This work is an important element of Guernsey's Government Work Plan (GWP) that sets out the four priorities of government for 2021-2025 and how these are to be progressed.

GWP Priority Two, managing the effects of Brexit and Guernsey's international obligations, is of critical importance to the States and comprises four areas of focus. Focus four, International Agreements and Conventions and the compliance required to meet these obligations, includes requirements to conform to international standards on financial crime, preparing for MONEYVAL and the implementation of changes to law enforcement structures and system upgrades.

The greatest financial crime risks faced by the Bailiwick are set out in Guernsey's National Risk Assessment On Money Laundering And Terrorist Financing (the NRA) [2] and stem from the laundering of the proceeds of foreign criminality where the underlying offences are most likely to be bribery, corruption, fraud (including tax evasion), drug trafficking, insider dealing and other forms of market manipulation. Although the risk of terrorist financing is significantly lower, it is likely to emanate from cross-border business passing through or administered from Guernsey. In part, it is these risks and threats that MONEYVAL evaluators will focus upon when evaluating the effectiveness of Guernsey's AML [3] and CFT [4] systems.

Enhancing investigatory effectiveness in readiness for the evaluation required a radical departure from Guernsey's previous stance on financial crime that was weighted towards prevention and regulation rather than an enforcement orientated focus on the risks set out in the NRA. This approach created a lacuna in the investigation of money laundering emanating from the proceeds of foreign criminality; a gap MONEYVAL will inevitably shine its spotlight upon when assessing law enforcement's effectiveness post 2016. Of course, the investigation of domestically orientated economic and financial crime (such as the targeting of Bailiwick residents by

1 MONEYVAL is a permanent monitoring body of the Council of Europe. It assesses compliance with international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation to help improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively. It pursues these objectives via a dynamic process of mutual evaluations, peer review and regular follow-up of its reports.

2 Published January 2020

3 Anti-money laundering

4 Combatting the financing of terrorism

fraudsters operating locally) remains a very important function laid to law enforcement and such crimes will continue to be investigated by BLE's[5] Criminal Investigation Department supported by the Economic & Financial Crime Bureau where appropriate.

The Bureau was established on an administrative basis and launched in June 2021 by the President of the Committee for Home Affairs and myself and took over primary responsibility for economic and financial crime from BLE. Legislative proposals likely to be enacted in 2022 will put my accountability to the Committee on a legal footing and provide the legal vires for the Bureau to discharge its investigatory functions. The development of other legislative proposals pertinent to economic and financial crime has also been high on the agenda this year and, subject to due process and enactment, will help strengthen Guernsey's criminal and civil justice frameworks and enable greater operational effectiveness through the delivery of AML outcomes.

In June, investigators from BLE's former Economic Crime Division were transferred to the Bureau and strategic responsibility for the former Financial Intelligence Service (now rebranded as the Financial Intelligence Unit) was formally transferred to myself as the EFCB's first Director, though the FIU will retain its operational independence to meet international standards. The FIU will, as in previous years, continue to publish its own Annual Report.

The Bureau's three year Business Plan was published towards the end of the year and sets out our mandate and the key objectives and priorities that are necessary to realise an enforcement capability that can deliver greater investigatory effectiveness. These priorities focus on enhancing intelligence and investigatory capabilities and a greater emphasis on recovering the proceeds of crime and unlawful conduct in cases that underpin Guernsey's primary risks. Developing a more proactive stance to economic and financial crime will put the Bailiwick of

5 Bailiwick of Guernsey Law Enforcement consisting of Guernsey Police and the Guernsey Border Agency

Guernsey in a stronger position to meet its international obligations and, over time, improve outcomes such as the volume and quality of money laundering and asset recovery investigations that are commensurate to the Bailiwick's key NRA risks.

The recruitment of talented individuals to build the diverse and professional workforce necessary to meet the challenges and complexities of economic and financial crime has been high on our agenda. Wherever possible we have recruited locally but inevitably our net has been cast further afield to attract the talent and experience we seek. This has not been without difficulty given the shortage of affordable housing in Guernsey and this factor alone has inhibited the hiring of skilled individuals from the UK and further afield. As a result, staff numbers only increased by 7% though we will start to see a slight increase in numbers during 2022 as our 2021 recruitment campaigns start to bear fruit.

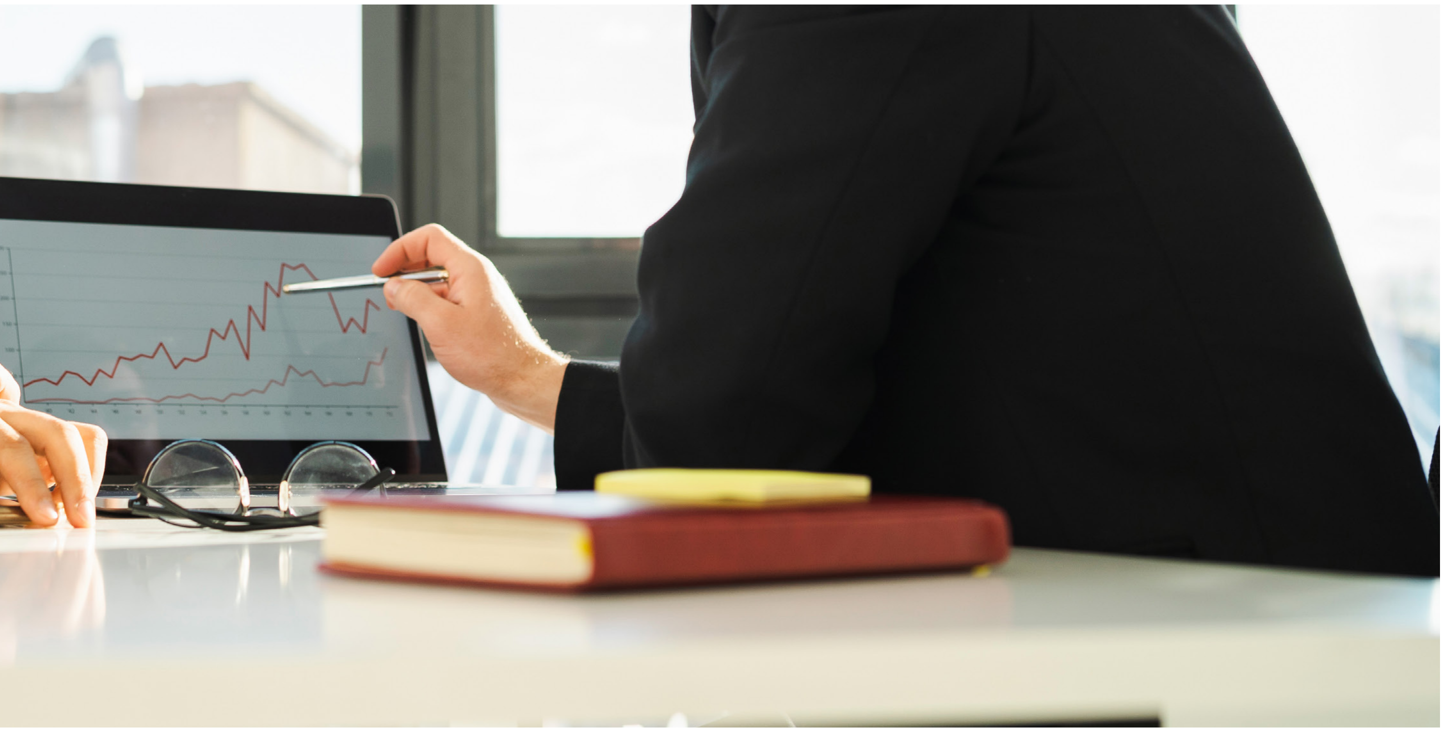
Since the establishment of the Bureau I have maintained that future growth will be progressive and proportionate to the demands of intelligence led casework that reflects the threats set out in the NRA. This remains the case and going forward the resource ceiling for the Bureau's operating model (including the FIU) is unlikely to exceed fifty three staff.

The shift in approach to economic and financial crime has required the development of a new training syllabus

to help staff enhance their skills and expertise in the management of complex financial investigations. This is scheduled for delivery during 2022 and forms part of a wider continuous professional development programme that is already underway to improve workforce capabilities.

Towards the latter part of 2021 a review commenced to look at our information technology requirements to ensure we have the right tools to deal with the investigation of complex financial crime. This is being conducted in concert with our IT partners and is scheduled for completion by June next year and will steer our future IT requirements.

Domestic and international cooperation is critical to improving operational effectiveness and building relationships with key domestic partners and promulgating our mission and mandate



to industry have been important aspects of our work this year. Our engagement with international partners is growing and developing collaborative cross border relationships features prominently in our objectives for 2022. Building the Bureau's brand and identity as an independent investigator forms a significant part of our relationship building plans. Our logo was developed to represent a modern law enforcement authority and a website is under development and will be launched next year; both of which contributes to our role as an autonomous law enforcement entity.

The establishment of the Bureau came at a time dominated by the impact of covid-19. Like many other public authorities and businesses alike, we adapted and adjusted our operating practices to meet prevailing restrictions. These actions, I am pleased to report, enabled the Bureau to sustain business as usual functions with minimal detriment to the achievement of our core objectives and priorities.

Finally, I wish to express my sincere thanks to the Committee for Home Affairs for its support and making the establishment of the Bureau possible.

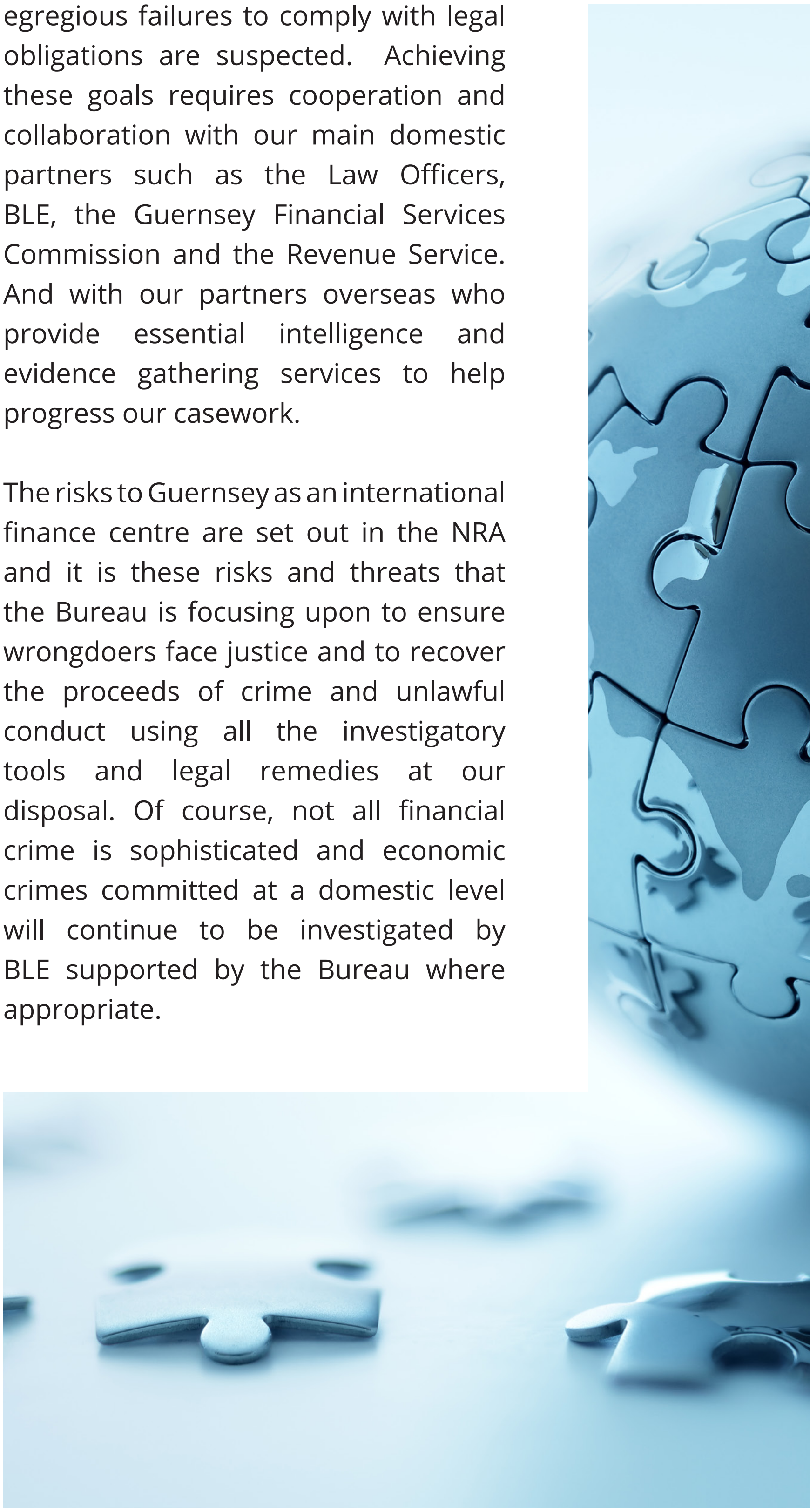
Kevin Davis

1. Statement of Purpose

The benefits of globalisation are not lost on sophisticated criminals who exploit the finance industry as a means to integrate dirty money into the legal economy. Financial investigations have, unsurprisingly, become increasingly transnational and complex in nature, often involving the identification and tracing of suspect money flows, criminal assets and the gathering of evidence across multiple jurisdictions. Even in what may seem to be a straightforward acquisitive crime, the fruits of such wrong doing are all too frequently laundered via complex webs of shell companies, trusts and other financial vehicles to mask the true identities of criminals and the ultimate beneficiaries of criminally derived wealth. The conduct of professionals and industry itself may also be called into question and in some cases these enablers wittingly aid criminals to launder the fruits of their crimes or turn a blind eye to their clients' dubious sources of wealth, despite the regulatory and legal obligations conferred upon them.

The Bureau's primary mandate is to investigate money launderers that utilise Guernsey's financial industry as a means to legitimise the fruits of their crimes; crimes that are committed predominantly overseas. And, in appropriate cases, investigate the conduct of industry and professional enablers where conscious facilitation of money laundering or systematic and egregious failures to comply with legal obligations are suspected. Achieving these goals requires cooperation and collaboration with our main domestic partners such as the Law Officers, BLE, the Guernsey Financial Services Commission and the Revenue Service. And with our partners overseas who provide essential intelligence and evidence gathering services to help progress our casework.

The risks to Guernsey as an international finance centre are set out in the NRA and it is these risks and threats that the Bureau is focusing upon to ensure wrongdoers face justice and to recover the proceeds of crime and unlawful conduct using all the investigatory tools and legal remedies at our disposal. Of course, not all financial crime is sophisticated and economic crimes committed at a domestic level will continue to be investigated by BLE supported by the Bureau where appropriate.



2. Developing Capabilities

Discharging the Bureau's functions efficiently and effectively requires the right assets and capabilities to be in place and ensuring these are nurtured and maintained to provide business resilience. Our biggest asset is our people and building a workforce with the right skills, expertise and knowledge to tackle the complexities of our evolving casework has been at the forefront of our capability building programme.

In this regard the Bureau is working towards a multi-disciplinary approach to its work with teams comprised of people from different professions: criminal and civil investigators, investigating lawyers, intelligence operatives and other specialist staff that collectively will bring the diverse array of knowledge, skills and experience required to tackle complex financial crime.

Whilst the transfer of investigators from BLE's former Economic Crime Division provided a staffing baseline, the number of transferees were well below the Bureau's optimum operating model. As a consequence three recruitment campaigns were launched to recruit additional investigators and investigative lawyers. Despite these recruitment drives, the number of successful non-resident applicants fell well below our expectations, primarily driven by the lack of affordable housing in Guernsey. Although disappointing, we are working with government to develop realistic solutions to help overcome these issues and we will be launching further recruitment initiatives during 2022.

Helping our investigators to develop their investigatory and financial expertise is a crucial component of our capability building programme. Regular upskilling sessions are in place and a three tier training syllabus is under development to enhance the technical and complex case management skills of our investigators. This will be delivered next year together with bespoke financial training delivered by industry and other experts.

Ensuring investigators have the right IT tools to investigate complex financial crime has also been high on our agenda. We are working with partners to enhance our inherited IT infrastructure and significantly improve upon our eDiscovery capabilities to enable swifter case progression. Although this will not be a quick fix, it will nonetheless pay dividends in the medium to longer term and contribute towards the step change in effectiveness the Bailiwick is seeking within the law enforcement space.

We have fostered relationships with stakeholders throughout the year especially with our three key partners, the Law Officers, BLE and the Guernsey Financial Services Commission. We have also contributed to a number of policy and legislative initiatives that affect Guernsey's criminal and civil justice systems that will, in time, help secure the additional tools and legal remedies we seek to improve effectiveness in tackling economic and financial crime.

3. Our Casework

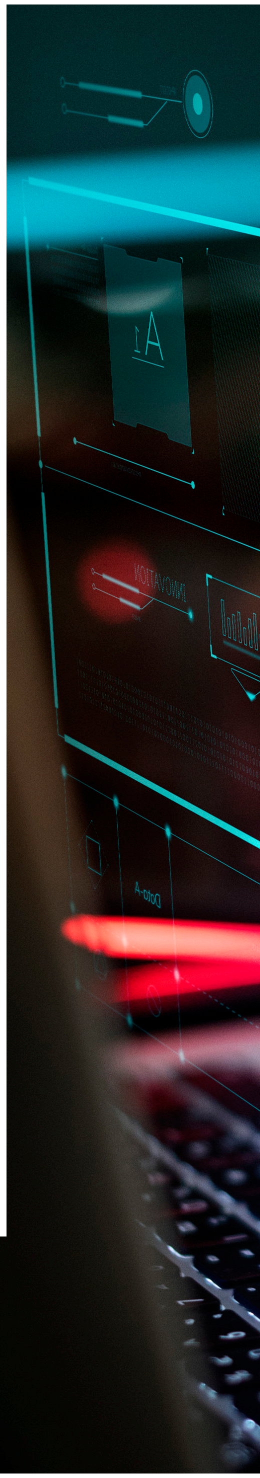
As an emergent law enforcement authority, a good deal of time has been spent developing systems and processes that will help manage and deliver more effectual criminal and civil justice responses upon which the Bailiwick's enforcement regime will be judged by MONEYVAL in 2024. High quality and well developed information lies at the heart of our intelligence led approach. Work has commenced to recalibrate the FIU's operating practices to drive up intelligence referrals for consideration of investigation and appropriate interventions by the Bureau's Case Development Unit.

This approach is providing an improved pipeline of intelligence and potential casework that corresponds with the primary financial risks faced by Guernsey and a case governance structure that enables a more performance driven culture with timely case progression at its heart.

During the first year of operation our casework was drawn from four distinct areas: criminal cases inherited from BLE's former Economic Crime Division; civil recovery cases inherited from the former International Cooperation and Asset Recovery Team (ICART)[6]; the conduct of conviction and non-conviction based asset recovery investigations that support BLE's volume crime casework and progressing criminal and civil investigations that underscore the primary financial crime risks set out in the NRA.

Working with the Law Officers and BLE, we have:

- Helped recover >£73.3k that represents the proceeds of crime;
- Helped recover >£4.29 million that represents the proceeds of unlawful conduct;
- Ensured £164.9 million of suspected tainted assets have been protected from dissipation pending financial investigation;
- Opened two money laundering investigations that led to the charging of three suspects with money laundering (and other) offences.



6 A three year joint initiative by the Law Officers and BLE that ended in 2020

Case Overview

	Inherited Cases	New Cases	Total Cases
Criminal Investigations	9	3	12
Criminal Investigations which meet the risks identified in the NRA	3	1	
			+
Conviction based asset recovery investigations for BLE	59	54	113
			+
Non-Conviction based asset recovery investigations for BLE	7	11	18
			+
Non-conviction based asset recovery investigations which meet the risks identified in the NRA		5	5
TOTALS	75 +	73 =	148


Report
Overview

4. Casework Analysis

Criminal Investigations

During the accounting period twelve cases involving thirty one suspects were subject to criminal investigation. Seven requests were made to overseas jurisdictions to obtain evidence in four of these cases under mutual legal assistance arrangements (see Section 5).

Nine cases were referred to the Law Officers for charging decisions and at year-end charging decisions were awaited in two of those investigations. During the course of the year three suspects were charged with money laundering offences (and other predicate crimes) and one suspect charged with fraud. No charges were brought in respect of ten individuals in five inherited cases (four fraud investigations and one corruption inquiry). See Figure 1.

During the year four suspects were arrested for economic crimes and three premises were searched for evidence.

SUSPECTS INVESTIGATED & CHARGED BY CASE TYPE

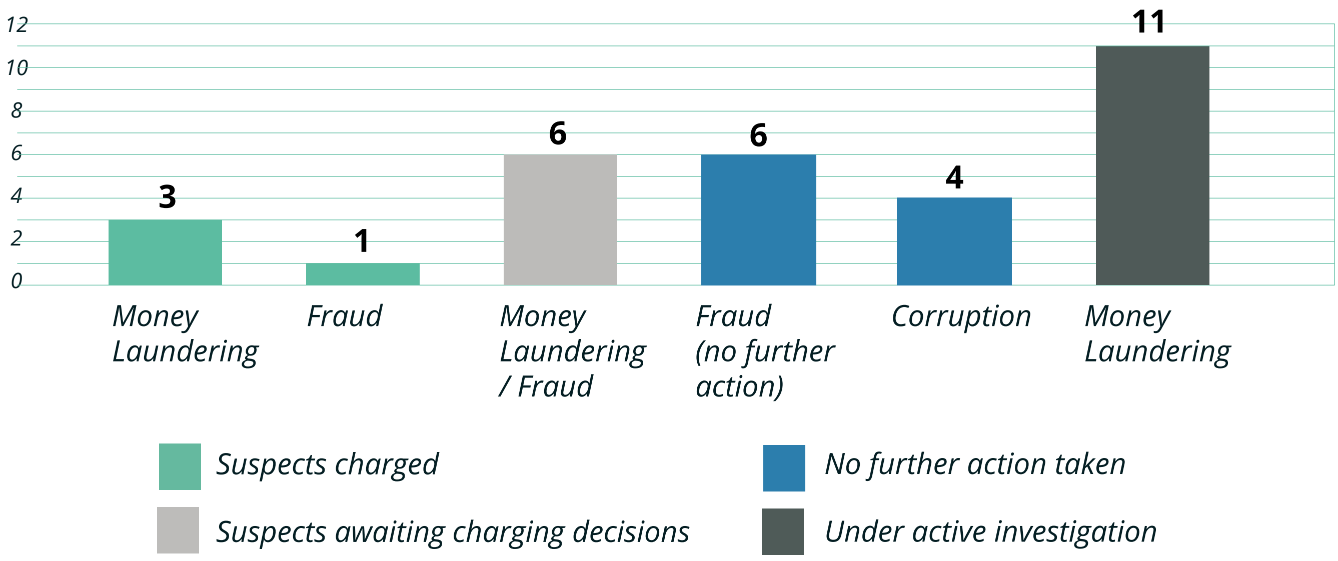


Figure 1

Figure 2 depicts the number of criminal investigations by case type. Four cases related to suspected criminality where money laundering constituted the primary offences under investigation and two where fraud with money laundering as a secondary offence were the principal offences under investigation. The remaining six cases involved the investigation of domestic fraud and a corruption allegation.

CRIMINAL CASES BY CRIME TYPE

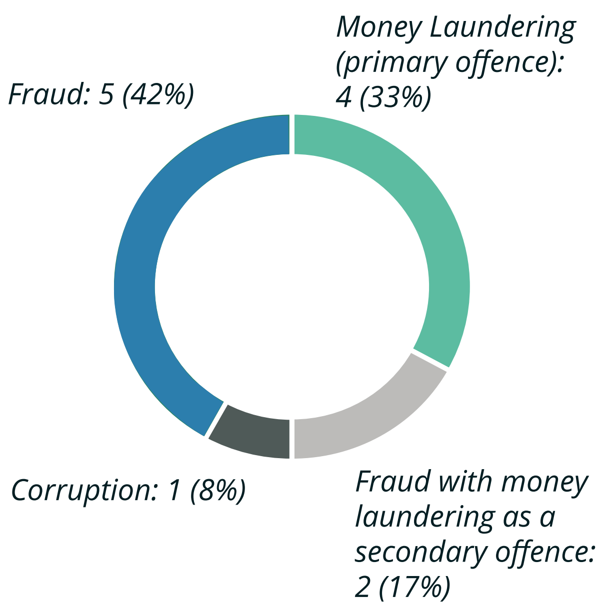


Figure 2

CASE STUDY: Money Laundering

EFCB investigators commenced a money laundering investigation involving suspicious transactions totalling many £millions deposited with financial institutions in Guernsey. These activities were identified by the regulated sector that filed Suspicious Activity Reports (SARs) with the FIU.

The investigation identified the use of false documents to support the opening of banking facilities and large deposits were made where the source of wealth was deemed to be highly suspicious. The suspects were arrested and premises searched for evidence of money laundering and action was taken to prevent the dissipation of £millions assets held in Guernsey suspected to represent the proceeds of crime. The suspects were charged with money laundering linked to crypto currency trading and other serious criminal offences.

The EFCB's investigation led to the identification of suspected tainted funds held and controlled by the suspects overseas and action was taken by the appropriate authority to freeze assets valued in the many £millions.

mmittee for Home Affairs for its scrutiny.

CASE STUDY:
Conviction Based Asset Recovery

In 2019, two suspects were arrested on arrival at Guernsey Airport for smuggling Class A and Class B drugs with a local street value of approximately £17,500. Later that year both suspects pleaded guilty to drug trafficking offences and were subsequently sentenced to 3 years imprisonment.

A confiscation investigation identified one offender's interest in a property in the UK which represented a realisable asset. The other offender was found to have no realisable assets. Both offenders could not evidence legitimate sources of funds credited to their respective bank accounts.

Confiscation hearings were held during 2021 and the Court determined both offenders had benefitted from drug trafficking to the sum of £14k and £63k respectively. A nominal order to pay £1 was made in respect of the first offender and an order to pay £63k within 18 months was made with a default sentence of 21 months imprisonment imposed in respect of the second offender.

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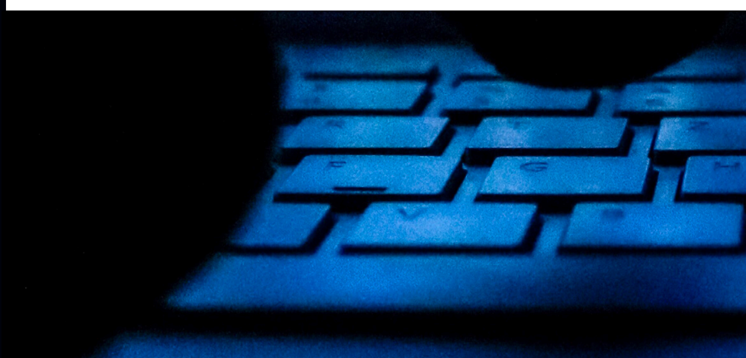
Asset Recovery

During the accounting period our asset recovery investigations followed two distinct pathways: those that underpinned the risks and threats set out in the National Risk Assessment and those that supported BLE's volume crime case work – principally drug trafficking interventions by the Guernsey Border Agency (GBA).

There were one hundred and thirty six financial investigations where the identification and recovery of the proceeds of crime[7] or unlawful conduct[8] were the primary objectives; five of these underpin strategic risks set out in the National Risk Assessment and where the value of tainted assets exceeds £57.8 million. During the year sixty five new financial investigations were opened to support BLE's operations. The year-end value of assets subject of active financial investigation or review exceeded £57.9 million.

7 Conviction-based asset recovery

8 Non-conviction based asset recovery



To protect property from dissipation, suspects or defendants subject to criminal investigation or criminal proceedings may be restrained from using or dealing with their assets (subject to conditions and exceptions) by order of the Royal Court. This may continue until such time as the Court (upon conviction or acquittal of the defendant) either makes an order to confiscate property that represents the proceeds of crime or revokes the restraint order. Similarly, in civil forfeiture investigations, an order to freeze assets held in a bank account may be made by the Royal Court where there are reasonable grounds for suspecting the funds represent a person's proceeds of unlawful conduct or are intended by any person for use in unlawful conduct. The value of assets protected from dissipation at year-end by virtue of restraint orders and in respect of freezing orders in-year is shown in figure 3.

VOLUME & VALUE OF RESTRAINT AND FREEZING ORDERS

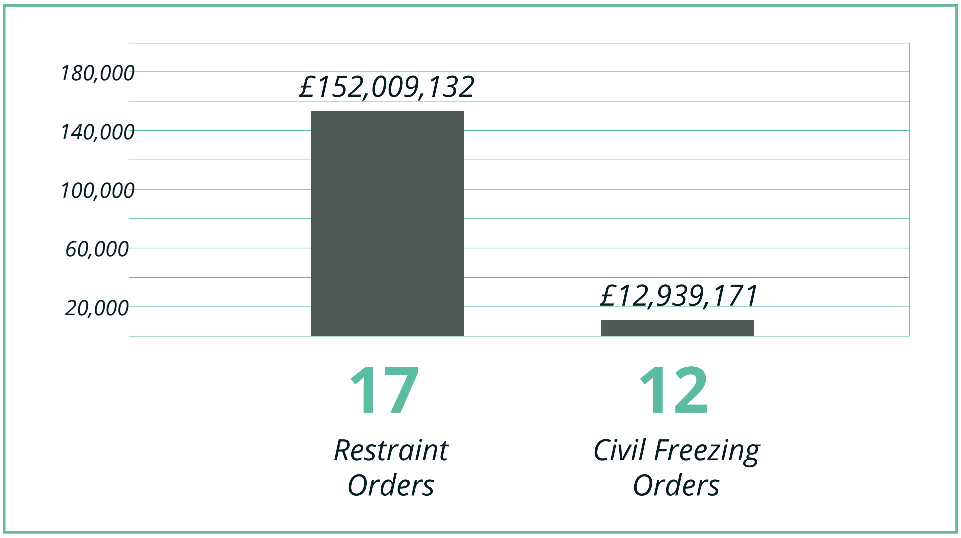
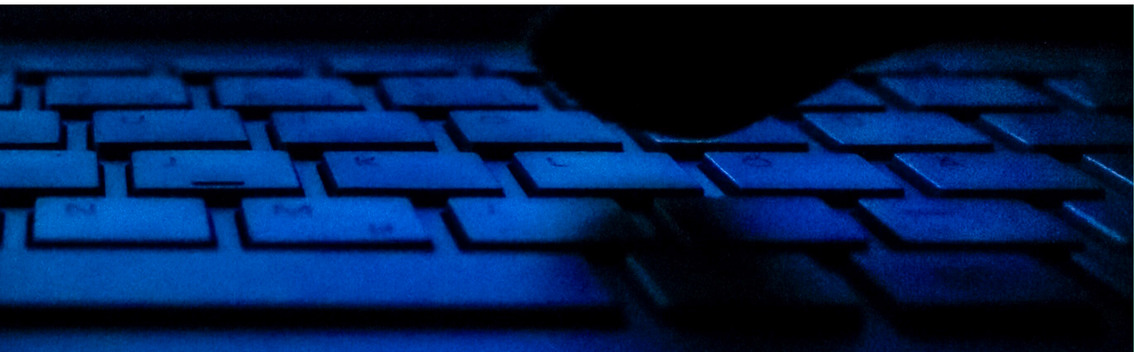


Figure 3



Whilst these legal remedies are designed to prevent assets from dissipation the Royal Court can order the confiscation of assets that represent the proceeds of crime in criminal cases and the forfeiture of tainted assets in civil proceedings. Figure 4 depicts the volume and value of confiscation orders made and enforced, the value of forfeiture orders at year-end and enforced orders in-year. During the accounting period £86,632 was paid into the Seized Asset Fund arising from our financial investigations and proceedings brought by the Law Officers.

VOLUME & VALUE OF ASSET RECOVERY ORDERS (£)

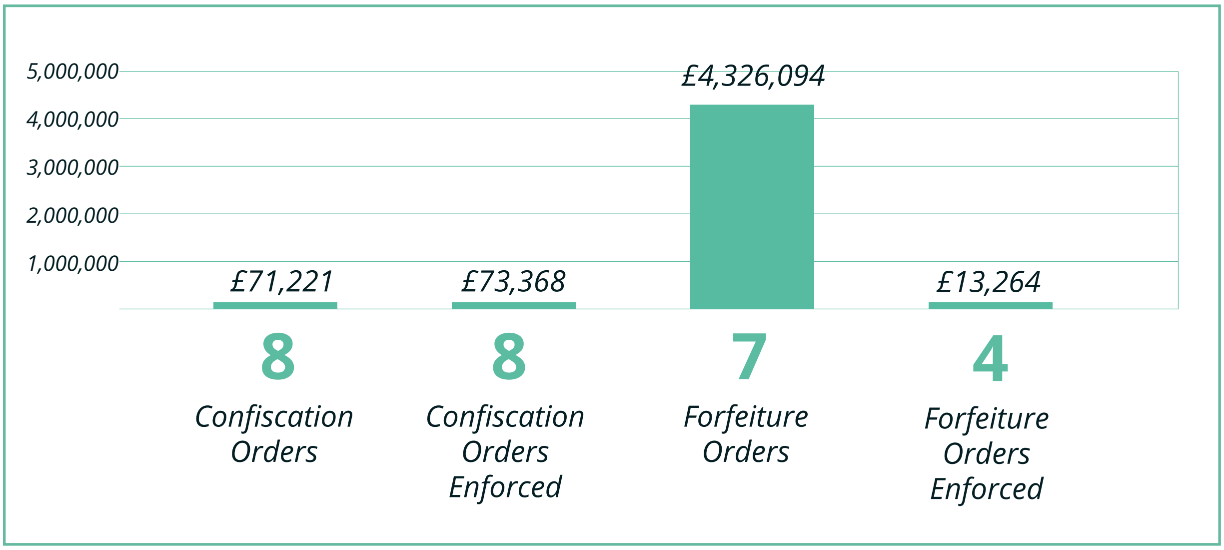


Figure 4

CASE STUDY:

Non- Conviction Based Asset Recovery

In 2007 a US Federal Grand Jury issued an indictment against a Pakistan national. The individual was indicted for conspiracy to commit securities fraud associated with insider dealing. The defendant was never arrested or convicted and could not be extradited from his country of residence. The US authorities commenced "in rem" proceedings that were uncontested by the defendant. The US court found against the defendant and ordered the forfeiture of his tainted assets that included monies held in account(s) in Guernsey.

A request for mutual legal assistance was made by US authorities for its forfeiture order to be registered by the Royal Court and enforced. The request

5. Mutual Legal Assistance

The Bureau acts as an agent for the Law Officers in their role as the competent authority for mutual legal assistance, a method of cooperation between states for obtaining assistance in the investigation or prosecution of criminal offences[9]. In this capacity the Bureau executes requests for the gathering of evidence and information to support investigations by a requesting state. In appropriate cases we conduct financial inquiries to support legal proceedings instigated by the Law Officers to recover the proceeds of crime or unlawful conduct pursuant to an asset recovery order made by an overseas competent authority.

During 2021 the Bureau executed eighteen requests for the gathering of evidence that was subsequently supplied to requesting states and conducted four inquiries to support asset recovery proceedings initiated in Guernsey by the Law Officers.

As part of its investigatory function, and in concert with the Law Officers, the Bureau evaluates incoming requests to identify suspected criminal offences and the identification of tainted assets that warrant the opening of a domestic criminal or asset recovery investigation. This is now a business as usual function albeit no domestic investigations were opened as a result of this process during the accounting period.

9 This may include requests for the restraint or recovery of assets on a non-conviction basis.

gave rise to many investigatory issues and there were many related legal matters that took a number of years to deal with. For instance, locating the defendant to serve legal documents required multi-jurisdictional support from asset recovery networks such as CARIN, ARIN-AP and ARIN-WCA.

An application to register the order was made however there were several legal challenges by the defendant. Following intensive work by the Law Officers, these were withdrawn by agreement. In June, the Royal Court ordered the forfeiture of $6.4M (£4,298,867) held in Guernsey accounts. Under an asset sharing agreement with the United States, 50% will be returned to US authorities and 50% will be paid into the Seized Asset Fund in early 2022.

6. Finance & Resourcing

As the Bureau was not established until the mid-year point there was no fixed budgetary allocation. BLE's operating costs for its former Economic Crime Division and the Financial Intelligence Service were, to all intents and purposes, made available to the nascent EFCB. This funding position, together with an additional resourcing budget of up to £1M[10] provided the required funding for the Bureau's inauguration, initial recruitment and ongoing investigatory costs.

For 2022, the Bureau will operate on a fixed budget approved by the Policy & Resources Committee and administered via the Committee for Home Affairs.

10 Approved by Policy & Resources Committee

At the point of the Bureau's establishment, thirteen investigators and two administrative support officers were transferred from BLE's former Economic Crime Division. The recruitment of additional investigators has been progressive and aligned to the Bureau's expanding case load. Two highly experienced individuals were recruited to fill senior posts and our investigator campaigns yielded seven investigators, four of whom will commence employment in 2022. A recruitment initiative for two lawyers was also launched in quarter four and will be finalised in early January 2022. During the year there were three staff losses; two to industry and one to the public sector. The distribution of resources is depicted in Figure 6.

STAFF RESOURCING 2021

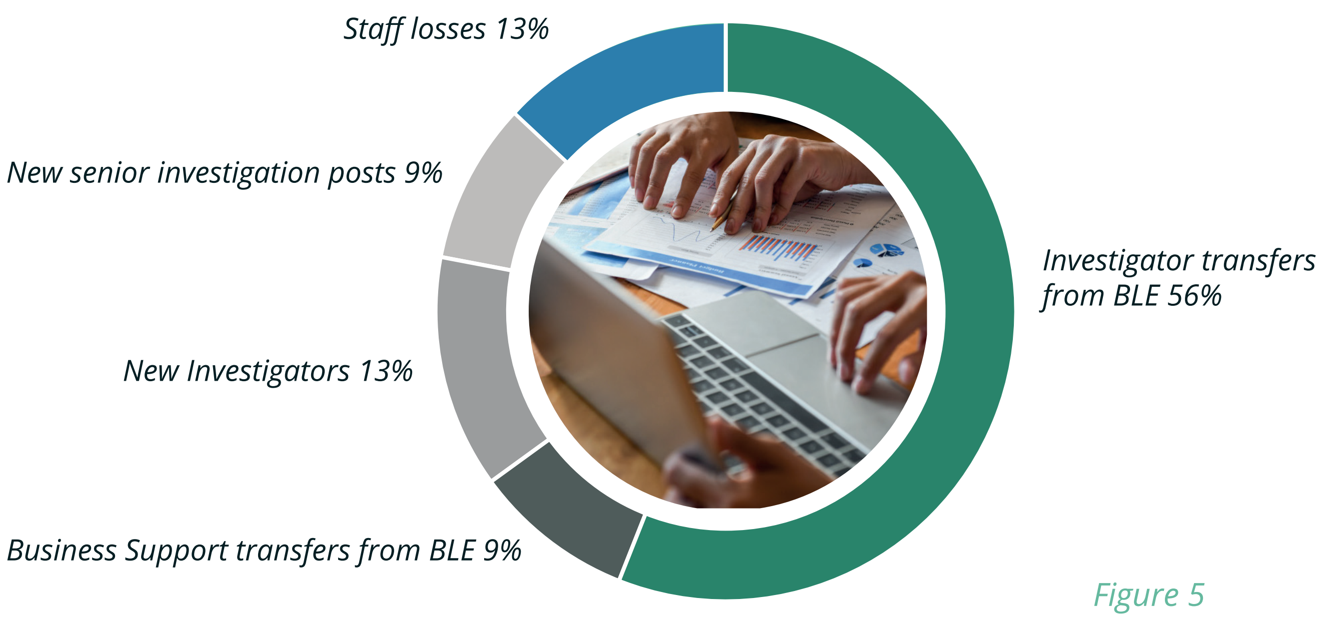


Figure 5