# A wicked problem: UK Anti-Money Laundering and Counter-Terrorist Financing Measures

**Abstract:**

Law enforcement agencies around the world grapple with the issues of terrorism financing and money laundering. This article focuses on the approach taken in the UK. We argue that tackling terrorism financing and money laundering are wicked problems that cannot easily be solved by law enforcement agencies. Throughout we will draw upon Rittel and Webber's work on wicked problems. We argue that the current approach to countering terrorism financing and money laundering measures in the UK do not work and are even counterproductive. At the same time, we argue that the public is being sold lies about their effectiveness when the entire system has been designed to allow corporations and the wealthy to hide money. This we argue makes it very difficult for UK Law enforcement agencies to tackle the problem.

‘However beautiful the strategy, you should occasionally look at the results’

*Ian Gilmour, Conservative MP, Cabinet Meeting 1981*

**Introduction**

The United Kingdom, and London in particular, are a global financial hubs benefitting from a dynamic business environment that places few restrictions on establishing a business. Politicians fondly speak of ‘our openness to trade and investment and the ease of doing business here in the UK’ (HM Treasury & Home Office, 2020, p. 2). Terrorist and organised crime groups require not only money to finance their operations but also the ability to easily move their money around the globe. The ease of setting up a business in the UK makes it an attractive place for criminal groups, who frequently set up legitimate businesses to hold their assets and launder illicit funds. The UK’s approach has been perceived by many as amongst the most comprehensive and effective anti-money laundering and counterterrorism financing regimes (CCAB, 2014; Dunn, 2016; Herlin-Karnell, 2012), although there is some acceptance that there are still significant shortcomings particularly in the area of real estate and allowing of concealed beneficial ownership (FATF & Egmond Group, 2018; IMF, 2016). According to the cited HM Treasury and Home Office report above, the economic cost is estimated to be roughly £37 billion annually. The National Crime Agency estimates that roughly £100 billion are laundered annually (NCA, 2021a).

According to the Financial Action Task Force, the UK is a leader in anti-money laundering and tackling terrorism financing (FATF, 2018). Despite many praising the UK's anti-money laundering and its counterterrorism financing regulations, these measures, we will argue, have been ineffective at best with an extremely low rate of interrupting illicit money flows. We will argue that anti-money laundering measures are a wicked problem, problems that are persistent over a sustained period and cannot be resolved using traditional measures. They are especially wicked as the UK government is also pursuing economic measures which undermine anti-money laundering efforts. As well as the tracing, tracking, and prosecuting strategies and tactics of the NCA and FATF must be re-evaluated, and where possible new strategies developed. Like gauging the roles of state, and non-state actors including players in the private sector in laundering illicit funds. Questions need to be asked whether or not there is likely internal collusion from the staff of anti-money laundering agencies. Could it also mean that the various government and international anti-money laundering institutions are overwhelmed by complex regulations and technological processes that the criminals take advantage of? Thus, the fight of mitigating the movement of illicit and dirty funds has genuinely been lost. Or are the various anti-money laundering regimes a mere hoax? Given the increase in the flow of criminal money passing through London, New York, Shangai, countries in Africa, and Gulf Corporation Council-GCC member countries (Siddique, Nobanese, Atayah, Bayzid, 2022; Griffin, 2022). This paper addresses some of these concerns. Not thoroughly interrogating the worsening problems of terrorism financing and money laundering despite all efforts could exacerbate and double the likely impact of the trend on national and international security architecture. Its outcome on legitimate government and businesses would be better imagined than experienced (NCA, 2021a). Although members of the international financial system and anti-money laundering agencies would claim they are doing something. But the poor result or increase in money laundering deconstructs and does not support such claims.

**Anti-Money Laundering and terrorism financing regulations**

The UK’s Anti-Money Laundering and Countering Financing measures are designed to protect National security, private individuals, the financial community, and importantly many auxiliary agencies and institutions. Most of UK’s Anti-Money Laundering and Countering Financing measures are found in the Terrorism Act (2000), the Anti-Terrorism, Crime and Security Act 2001 (ATCSA) and the Terrorism Act 2006 (TA 2006). Others are Proceeds of Crime Act (POCA 2002), and the Serious Organised Crime Act (SOCPA 2005) which sets out the UK’s Anti-Money Laundering, Financing Terrorism and Transfer of Funds (Harrison & Ryder, 2016). These national instruments draw operational relevance from the Money Laundering and Terrorism Financing Regulations (2020). This particular document focuses on the implementation of the European Union fifth momney laundering directives. Together, these instruemnts outline the legal and procedural guidelines for tackling financial crimes in the UK and within the Euroepean Union. According to the Financial Action Task Force (FATF), the UK has a good understanding of the risk terrorism financing poses and is proactively engaged in investigating and prosecuting those engaged in terrorism financing and money laundering. The report further argues that the UK has taken a leading role at an international level to designate terrorist organisations and implement proliferation of terrorism financing sanctions (FATF, 2018, p. 4). According to the HM Treasury and Home Office’s National Risk Assessment

traditional high-risk areas of money laundering remain, including financial services, money service businesses, and cash. However, new methods continue to emerge within these, as criminals adapt to increased restrictions and exploit vulnerabilities in different sectors and emerging technology (2020, p. 4).

It further states that the

terrorist financing threat continues to involve low levels of funds being raised by UK individuals for the purpose of lifestyle spending and low sophistication attacks. The majority of funds raised domestically are predominantly collected through legitimate means which includes salaries and state benefits. Terrorists are also using methods that are easily accessible to purchase items for attacks such as cash and debit/credit cards (2020, p. 5).

The threat that money laundering and the financing of terrorism pose is recognised in both the Serious Organised Crime Strategy and UK’s Counterterrorism strategy which make references to it and form an integral part of the overall approach against organised crime and terrorism (HM Government, 2018a, 2018b).

The political and legal stability offered by the UK and its financial institutions ‘provides many opportunities to disguise and conceal illicit funds’ (NCA, 2016, p. 21), drawing in money from other countries. There are widely differing estimates on the annual cost of organised crime and the amount being laundered. The majority of organised crime groups are thought to be involved in the illicit drug trade, fraud, human trafficking and other acquisitive crimes. Such activities require the laundering of the proceeds of crime. Given the UK’s position as an international financial hub, the NCA estimates that each year hundreds of billions are laundered through the UK financial institutions and their subsidiaries, though they acknowledge the difficulty in estimating the scale of the problem (NCA, 2020, p. 54). Some argue that such estimates are grossly underestimated and often evidence-free (Levi, 2015; Reuter & Truman, 2004). According to Rider (2002), who relied on a senior official, even in the mid-90s hundreds of billions passed through London. Especially through London’s lucratic property market which is exploited by proceeds of crime that is generated offshore (Harrison & Ryder, 2016). Likely, these amounts are now substantially higher (House Of Commons Treasury Select Committee, 2019).

In 1996 the UK government set out to overhaul the temporary terrorism legislation, which was in place to tackle Northern Ireland related terrorism. Based on the recommendations found within the Lloyd report, the government drafted new legislation, the *Terrorism Act 2000*, which included measures to tackle the financing of terrorism (Home Department & Secretary of State for Northern Ireland, 1998; Lloyd Report, 1996). Shortly after, these measures were further enhanced by the *Anti-Terrorism and Security Act 2002* and the *Terrorism Act 2006*. The *Proceeds of Crime Act 2002 (POCA)* and its amendments in the *Serious Organised Crime Act 2005* (Harrison & Ryder, 2016) also overhauled the approach to money laundering*.* In 2001 the UK supported and passed the UN Security Council Resolution 1371 which affirmed the dangers of terrorism and included measures to tackle money laundering and countering terrorism financing.[[1]](#footnote-1) Around the same time, the UK also adopted the Council of Europe’s Money Laundering Regulations and Convention on Cybercrime which outlined specific legal and financial sanctions to tackle serious organised crime (Ioannides, 2017; Seger, 2012).[[2]](#footnote-2) It could be argued that tackling terrorism financing may be more difficult due to a lack of an agreed international definition of terrorism (Neumann, 2017). However, the Terrorism Act 2000 defines terrorism, a definition that is used for policies and operational purposes. In addition, rather than targeting an obscure concept or loose network, the legislation sets out proscribed terrorist organisations. Individuals subject to counterterrorism financial sanctions are named in a constantly updated document, which can be easily be accessed on the government's website (HM Treasury - Office for Financial Sanction Implementation, 2021; Home Office, 2020).

Furthermore, the new regulations introduced in 2017 and 2019 provide an improved regulatory framework that allows government agencies and financial institutions to tackle money laundering and counterterrorism financing more *effectively*.[[3]](#footnote-3) One of the objectives of the new regulations was to bring them in line with the Financial Action Task Force recommendations, which are also updated regularly (FATF, 2020). The 2019 regulations implemented the fifth European Union Money Laundering Directive which increases transparency regarding the ownership of companies, enhances cooperation between financial supervisory authorities, and increased stricter controls of customers located in high-risk countries outside the EU (Sygna, 2021). The current rules and regulations mandate that government agencies, financial institutions and their agents, NGOs, and others vigorously monitor and report suspicious financial activities within their organisations. It is worth highlighting that anti-money laundering and tackling terrorism financing is a collective effort, which goes far beyond government agencies and required collaboration between governments, the private sector and international partners. This process includes mechanisms for reporting and disclosing unusual activities (Harrison and Ryder, 2016).

Several minor changes have already been made to the above regulations, due to Brexit. Under the new regulations, a *third country* is any country outside the UK as opposed to outside the EEA.[[4]](#footnote-4) It is also worth pointing out that the Brexit Agreement includes a section on the future relationship concerning money laundering and terrorism financing. The EU and UK will continue to share information and ‘regularly review the need to enhance the regime, taking into account the principles and objectives of the Financial Action Task Force Recommendations’ (European Commission & HM Government, 2020, p. 336). Further amendments to the current regulations are inevitable, however, how and when these will occur remains unclear.

It is worth highlighting that the UK has a range of tools that allow/enable the government to target criminal assets. Although almost 20 years old, the Proceeds of Crime Act 2002 (POCA) is still in force. POCA has been updated by successive governments to ensure that it ‘provides robust powers to tackle criminal assets (Home Office, 2019a, p. 11). In addition, the Terrorist Asset-Freezing etc Act 2010 introduced sanctions that permits the government to target and freeze assets of those deemed to be involved in terrorism in the UK or abroad. The Treasury maintains an up-to-date list of individuals who have been sanctioned using these powers. Financial institutions are prohibited to provide financial services to individuals on the list, which is published online (HM Treasury - Office for Financial Sanction Implementation, 2021; Home Office, 2019b). Due to Brexit, new regulations have been put in place to allow for such sanctions to continue.[[5]](#footnote-5) Such legislation and regulations empower the government to freeze, recover and seize assets of individuals involved in criminal activities including money laundering and terrorism. Criminal assets can either be recovered after a criminal conviction or through the use of civil orders such as Cash Seizures, Civil Recovery and Taxation. The latter allows the NCA to levy tax on any assets they suspect are proceeds of crime. The Criminal Finances Act 2017 also introduced *Unexplained Wealth Orders* and *Account Freezing Orders*. These orders empower the authorities to confiscate criminal assets, contributing to Anti-Money Laundering and Countering Terrorism financing measures. These have already been used to seize illicit assets. According to the Home Office, £1.6 billion have been recovered between 2010 and 2018 with ‘hundreds of millions more having been frozen and put beyond criminal use. For example, Account Freezing Orders (AFOs) … were used more than 650 times in 2018/19 to freeze over £110m of suspected illicit funds’ (Home Office, 2019a, p. 5).

The UK also established a Financial Intelligence Unit (UKFIU) as recommended by FATF (2003), which sits within the NCA (2015). FATF recommendations go beyond international cooperation to ensure that member states design preventative measures (FATF, 2020). FATF 40 regulations, which were consolidated in 2012 are considered the global benchmark for anti-money laundering and counterterrorism financing regulations (Bergström, 2018). In the wake of the Panama Papers scandal, the UK government also set up the Joint Financial Analysis Centre (JFAC) leveraging the EU and FATF regulations and recommendations. Its main objective is to bring together staff with analytical skills and intelligence capabilities working across government including the NCA, HM Revenue and Customs, Financial Conduct Authority, and the Serious Fraud Office. They collaborate in the processes of detecting money laundering and terrorism financing (National Crime Agency, 2020). Financial institutions and their subsidiaries, lawyers, insurance companies, casinos and real estate agents are mandated to follow the recommendations and report suspicious activities. Institutions who fail to report suspicious activities or tip of their clients are committing a criminal offence (Booth, Farrell, Bastable, & Yeo, 2011).

In the UK Suspicious Activity Reports (SARs) are used to alert the authorities to potential instances of money laundering or terrorism financing. SARs

provide information and intelligence from the private sector that would otherwise not be visible to law enforcement. SARs can also be submitted by private individuals when they have suspicion or knowledge of money laundering and terrorist financing (NCA, 2021b).

In 2019/2020 the NCA and UKFIU received 573,085 SARs, a 20 per cent increase from the previous year (National Crime Agency, 2020:2). It appears that citizens awareness and participation in the effort to stop money laundering are yielding the desired result. An increase in SARs reporting suggests those working in the financial industry and members of the public becoming more aware of the ability to submit SARs easily online. In 2020 SARs reports led to the recovery or freezing of assets worth £172 million, a 31 per cent increase (National Crime Agency, 2020). According to Walker & King (2015) there has been some fragmentations and duplications in the harmonisation policies and procedures designed to counter terrorism financing such as the creation of two regimes to tackle the finance of illicit activities. The UK regulatory instruments recommend charities should monitor their own businesses and adopt and adopt a seemingly standard process that will help them to guide against terrorism financing. It remains unclear the success these charities have garnered in actualising this mandate. As Walker noted, the intensification of FATF’s attention on charities to scrutinise their fight against money laundering and terrorism financing has not had much impact on the crime (2016). Although the UK police along with about eleven other regional counter terrorism and intelligence units represents the public face of the UK’s counter-terrorism fight, many individuals and institutions are hardly deterred from the crime (Hall, 2020). However, in 2016, the UK has made efforts to publish a consolidated Action Plan against AML/CFT with close collaboration with multi-agencies including public and private institutions. Creating a collaborative and standardised strategy for monitoring and reporting AML/CFT crimes between public and private entities such as British Bankers’ Association, Home Office, Charity Commission, NTFIU, FCO, NCA and HMT to mention a few (HM Treasury, 2016).

**What is going wrong?**

Reading the above, one could be forgiven for thinking that anti-money laundering and counterterrorism financing initiatives are at least moderately successful. Government and FATF reports certainly suggest as much (CCAB, 2014; FATF, 2020; Home Office, 2019a), though these reports also acknowledge that there is room for improvement. This is, however, a monumental understatement. According to Pol (2018b), criminals in the UK retain roughly 99 per cent of the proceeds of crime. Based on the figures provided in a Home Office report (2019a) and NCA (2021a) estimates of the amount of money being laundered annually, we have calculated the overall success rate by dividing the amount of money frozen and/or seized by authorities with the estimated amount of money laundered – roughly £100 billion annually, which is a conservative estimate. The Home Office report covers 2010-18 and states that authorities recovered £1.6 billion and froze an additional few hundred million, totalling roughly £2 billion. This is compared to the approximately £800 billion being laundered during the same period. Our calculations suggest that the success rate is even lower than that suggested by Pol (2018b), at a meagre 0.0025 per cent. Hardly a success story!

There are also issues with the counterterrorism financing measures, which deserve a brief mention. Rather than being a cohesive threat, the global terror network and its financial foundations are a patchwork of multiple networks, actors and groups (Keatinge & Keen, 2020). This is further complicated by the rise of the far-right (Auger, 2020), and *lone-wolf terrorist* attacks*,* like those in Manchester and London (Anderson, 2017). A large proportion of jihadi terror groups in Europe were self-funded, using personal savings, loans and the proceeds of petty crime (Nesser, 2018; Neumann, 2017). Once proscribed individuals, charities and companies can be sanctioned using the measures outlined above. According to Neumann (2017), current approaches to tackling the financing of terrorism are failing. The UK government continues to pursue a top-down approach which was forged in the years after 9/11 (Durner & Cotter, 2019). Government response remains one-dimensional, despite the changing nature of terrorism. According to Keatinge and Keen, a more effective response to tackling terrorism financing has to recognise the ‘variety of the ways in which terrorist actors raise funds. Whereas a response based on anti-money laundering may be relevant in some cases, this is far from always the case’ (2020, p. viii).

Although the criminalisation of terrorist financing remains relevant, other aspects such as a focus on wire transfers and charities are more reflective of the post 9/11 era – though they are not completely irrelevant. As the terrorism landscape evolves so should national and global responses (Taylor, 2006).

Tackling a terrorist group’s finances is far more challenging than simply switching off a tap. Groups adapt their strategies to respond to financial pressure; lone actors and small cells operate with little or no funding and that which they do use is often from legitimate sources such as salaries or benefits. Money will always find a way to flow, and disrupting this flow is an important objective, but should never be the sole pillar on which the response to terrorist financing is built (Keatinge & Keen, 2020, p. xi).

Durner and Cotter also support this approach and argue that anti-money laundering and countering terrorism financing need to be disentangled (2019). Extremism groups that have been proscribed by the UK government, certainly fall within the scope of the current counterterrorism financing regulations (HM Treasury & Home Office, 2020; Home Office, 2020). The focus remains mostly on the Islamist terror threat (Keatinge, Keen, & Izenman, 2019). Few far-right groups have been proscribed, placing them outside of the scope of the measures outlined (Reimer, 2021). Now, there are of course ongoing debates about what groups to proscribe from, but in the meantime, far-right groups in the UK are receiving millions of pounds in *dark money* from abroad. Well funded far-right groups pose a serious threat to our democracy and national security, yet governments are doing little to tackle this particular threat (Bradley & Schwirtz, 2021; Halliday, Beckett, & Barr, 2018).

**A wicked problem: Anti-money laundering and counterterrorism financing**

‘No man can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other’ (Matthew 6:24. KJV). In a peculiar way, this predicament has bedevilled successive UK governments approach to anti-money laundering. On the one hand, successive governments have pursued an agenda of aggressive deregulation in a drive to create a *business-friendly* environment, which allows the wealthy and businesses to hide their global wealth and avoid taxes (Shaxson, 2011; Zucman, 2015). According to the Financial Secrecy Index, the UK is ‘one of the biggest, if not the biggest, single player in the global offshore system of tax havens (or secrecy jurisdictions) today’ (2020, p. 1). On the other hand, this opaque system makes it incredibly easy for organised crime groups, foreign corrupt officials and the wealthy to launder and/or hide their assets as well as avoid tax through a network of shell companies registered in the UK and its connected offshore tax havens (Tax Justice Network, 2020). Despite introducing a raft of anti-money laundering measures, the financial system has remained secretive and opaque. Rather than acknowledge the structural and institutional weaknesses the government has gone to great lengths to prosecute a whistleblower who demonstrated how easy it was to create shell companies in the UK (Nicholls, 2018). The Johnson government is pursuing Singapore style tax-free zones and freeports, which have been identified as hotspots for money laundering and smuggling (Moiseienko, Reid, & Chase, 2020; Rankin, 2019). Such policies make anti-money laundering extremely ineffective as has been highlighted above.

Money laundering and terrorism financing, therefore, become wicked problems. ‘Wicked problems seem incomprehensible and resistant to solution’ (Alford & Head, 2015, p. 711). Such problems cannot be resolved through traditional processes and they continue to persist over sustained periods (Camillus, 2008; Churchman, 1967; Rittel & Webber, 1973). Organised crime and terrorism, and by extension, the means of legitimising the proceeds of crime are such wicked problems (Skoczylis & Burns, 2021). The UK has been particularly ineffective in this area, with lower success rates than many other countries (Pol, 2018b). Not only has organised crime become endemic in the UK, a trend that has been accelerated by the Covid-19 pandemic (Europol, 2020; Perry, 2018), it has also become a favourite destination for *dirty money* from around the globe, due to the ease of doing business here (Transparency International, 2019).

Rather than focusing on overall success rates, or the lack thereof, government ministers trumpet the *success* of their policies (Home Office, 2019a, 2021). Pol suggests that anti-money laundering and counterterrorism financing measures are *Bullshit,* and that ‘the current anti-money laundering/counter-financing of terrorism … model is almost completely ineffective in disrupting finances and profit-motivated crime’ (Pol, 2018b, p. 294). This is supported by many other scholars who also challenge the effectiveness of anti-money laundering and counterterrorism financing measures (Anand, 2011; Brzoska, 2016; Ferwerda, 2009). Given the numbers above, we agree with this assessment. Successive governments have introduced what appears to be an expensive and ineffective system, that not only allows most organised crime groups to retain the proceeds of crimes but encourages them to do business in the UK (House Of Commons Treasury Select Committee, 2019; Transparency International, 2019).

**Conclusion**

There appears to be a real disconnect between *law-in-the-books* and *law-in-action* compliance (Deleanu & Ferwerda, 2014; Pol, 2018a) Recent statements by the Home Secretary Priti Patel drive this point home. ‘I will not tolerate criminals lining their pockets with dirty money at the expense of law-abiding citizens’ (Home Office, 2021). The evidence, however, suggests that this is exactly what is happening and that the public is being fed *Bullshit* or what Black calls *descriptive misrepresentation* (Black, 1985; Frankfurt, 2005)*.* This political rhetoric is designed or intended to deceive the public and the misrepresentation is not merely inadvertent or accidental. The point is, this *bullshit* has allowed successive governments to paper over their abysmal failures to tackle money laundering and the financing of terrorism, while framing them as a success story, despite all the evidence to the contrary. The public either do not care or have swallowed the *alternative truth*, shrugging it off in this post-truth era (Ball, 2017). Despite this, policymakers have either not generated fresh ideas, or alternatives have been shelved. ‘If the system is overall so badly broken, then mere tinkering and tuning is worse than useless’ (Fitzpatrick, 2017, p. 451). More of the same will not produce different outcomes. The only thing that will, is a serious look at the systematic and institutional failures that allow this problem to persist. But such an approach is fraught with political peril and challenges the prevailing neoliberal status quo (Skoczylis & Andrews, 2020). In a post-truth era, we have grown used to *Bullshit* and a failure to challenge it will only prevent meaningful change.

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