Guarding the Public Purse - Serious Organised Crime (SOC) in Scotland and Public Sector Contracts and Supply Chains

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Agenda

This session will cover:

- What is Serious Organised Crime (SOC) (SOC Groups (SOCG))?

- Scotland's SOC Strategy

- What SOC looks like in Scotland

- Current Issues

- Damage Caused by SOC

- SOC in Procurement

- How SOCG infiltrate public contracts and supply chains.

- What can be done?

- SOC Audit

- New Legislation

- DETERing SOCG in Procurement Training

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What is SOC?

The statutory definition set out in the Criminal Justice and Licensing (Scotland) Act 2010 section 28(3) states:

> "Serious Organised Crime means crime involving two or more persons acting together for the principal purpose of committing or conspiring to commit a serious offence or a series of serious offences."

'Serious offence' means an indictable offence

a) committed with the intention of obtaining a material benefit for any person, or

b) which is an act of violence committed or a threat made with the intention of obtaining such a benefit in the future, and 'material benefit' means a right or interest of any description in any property, whether heritable or moveable and whether corporeal or incorporeal."

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What is SOC?

SOC is crime which:

- involves more than one person;

- is organised, meaning that it involves control, planning and potentially use of specialist resources;

- causes, or has the potential to cause, significant harm; and

- involves financial or other benefit to the individuals concerned.

SOCG: professionals involved in SOC in businesses (not gangsters)

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What is SOC?

- **Bribery** – the act of giving or receiving something of value in exchange for some kind of influence or action in return, that the recipient would otherwise not offer.

- **Collusion** – agreement between people to act together secretly or illegally in order to deceive or cheat someone. Can be carried out between contractors or between the procurer and bidder.

- **Conflict of interest** – a situation in which a person or organisation is involved in multiple interests (financial or otherwise), and serving one interest could involve working for/against another.

- **Corruption** – the abuse of entrusted power for private gain.

- **Fraud** – an act of deception carried out for personal gain or to cause loss to another party.

- **Money laundering** – the concealment of the origin of illegally obtained money, typically by means of transfers involving banks or legitimate businesses.

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Scotland's SOC Strategy

The **Scottish Government's strategic vision** is for a *'safer, fairer and more prosperous country free from the harm caused by serious organised crime.'*

- The Scottish Government published their updated Serious Organised Crime Strategy 2022 building on previous strategies.

- The aim of the 2022 Strategy is to reduce SOC and the harm it causes.

- It and improving collaboration across all sectors of society to try to combat the ever-changing landscape of Serious and Organised Crime in Scotland.

- It highlights how the Scottish Government will work with businesses, regulators, local authorities and public sector organisations to cut off the opportunities for SOCG.

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Source:: Scottish SOC Strategy 2022

Scotland's SOC Strategy

The Strategy is focussed on four **objectives**:

- **DIVERT**: to divert people from becoming involved in SOC and using its products.
- **DETER:** to deter SOCG by supporting public, private and third sector organisations to protect themselves and each other.
- **DETECT:** to identify, detect and prosecute those involved in SOC.
- **DISRUPT:** to disrupt SOCGs.

The Aim is to reduce serious organised crime and the harm it causes.

Source:: Scottish SOC Strategy 2022

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Scotland's SOC Strategy - DIVERT

The **Divert** Strand aims to divert people from becoming involved in Serious Organised Crime and using its products.

There are three themes within this strand:
- individuals and communities;
- products of serious organised crime; and
- people on the verge of entering into serious organised crime.

Some example of how the Divert strand helps in Scotland
- Since 2008, £110 million has been committed to supporting community initiatives to improve the quality of life for young people across Scotland.
- Since 2020, 153 young people and 32 family members have been supported to reduce the harm and impact of SOC on their safety and wellbeing across Glasgow, Edinburgh and Dundee.

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Scotland's SOC Strategy - DETER

The **Deter** Strand aims to deter Serious Organised Crime Groups by supporting private, public and third sector organisations to protect themselves and each other.

There are four themes within this strand:
- businesses;
- public and third sector organisations;
- licensing, regulation and enforcement; and
- procurement and commissioning of services

Some example of how the Deter strand helps in Scotland
- Tackling illegal waste disposal
- Launch of Banking Protocol in 2018 – to date 5,569 incidents reported with losses of £29 million prevented

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Scotland's SOC Strategy - DETECT

The **Detect** Strand aims to identify, detect and prosecute those involved in Serious Organised Crime.

There are three themes within Detect:
* collection, analysis and use of information and intelligence;
* investigation and detection of serious organised crime groups; and
* prosecution of serious organised criminals.

Some example of how the Detect strand helps in Scotland
* The Organised Crime Partnerships consisting of officers from Police Scotland and National Crime Agency (NCA). Since March 2020, there has been:
    * 7,264kg drugs and 36 firearms seized;
    * 45 convictions with sentences of 115 years;
    * 190 disruptions; and
    * more than £4 million in cash seized.
* SEPA investigates waste crime linked to SOC
* Prosecutions using Sections 28 to 31 of the Criminal Justice and Licensing (Scotland) Act 2010

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Scotland's SOC Strategy - DISRUPT

The **Disrupt** Strand is responsible for disrupting Serious Organised Crime groups.

There are five themes within Disrupt:
- multi-agency disruption of serious organised crime groups;
- serious organised crime group access to people, skills and advice;
- serious organised crime group access to finance, logistics, technology and information;
- recovery of proceeds of crime; and
- exposure of those involved in serious organised crime

Some example of how the Disrupt strand helps in Scotland
- Prosecution for those involved in SOC
- Use of Proceeds of Crime Act 2002 to recover financial benefit from criminal activities.

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What SOC looks like in Scotland

At the end of March 2023 there were estimated to be **101** SOC Groups in Scotland, made up of **1,726** individuals

61% of SOCGs are located in the **west** of Scotland, 23% in the east and 16% in the north.

72% of SOCGs are involved in the use of seemingly legitimate businesses. (Property development being the most common business sector for SOCGs.)

Other businesses involved are:
- Vehicle/transport (taxis, security)
- Service/retail
- Food/Catering
- Environmental
- Health/Beauty
- Social Care

As at the end of March 2023, there were 165 SOC individuals within prisons in Scotland. These individuals are linked to 51 separate crime groups.

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What SOC looks like in Scotland - Business Sectors

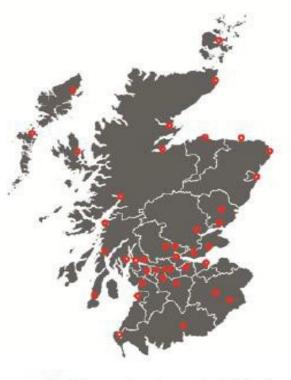| Business sector	Sub-sectors
Property	Landlord / property rental; <u>Property development / property maintenance</u>; Home improvement; <u>Groundworks / landscaping</u>; <u>Roofing</u>; <u>Building / construction – commercial & residential</u>; <u>Joinery</u>; <u>Scaffolding</u>; <u>Demolition</u>.
Vehicle / Transport	Taxi / private hire companies; Garage / <u>repairs / maintenance</u>; Dealership; <u>Haulage</u>; Car wash / valet; <u>Vehicle lease / hire / rental</u>; <u>Plant hire</u>; Vehicle breakdown; Furniture delivery / removals; <u>Courier / delivery company</u>; Ships / boats
Health and Beauty	Hairdressers / barbers; Nail bar; Tanning salon; Tattoo parlour; Beautician.
Service / Retail	Shop / retail premises; <u>Business Support</u>; <u>Cleaning</u>; Import / export company; Storage facilities; Dry cleaning / Laundry; Hire company (excluding vehicle and plant); Market stalls; Mobile phones / electronics stores; <u>Recruitment agency</u>.

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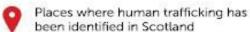# What SOC looks like in Scotland - Business Sectors

Business sector	Sub-sectors
Catering / Food	Restaurants & take away; Café / coffee shop; Mobile van / catering; Wholesaler; Bakery
Licenced premises	Bar / public house; Night club; Off licence; Management; Hotels
Environmental	Waste disposal & exploitation; Skip hire; Recycling; Tyres; Scrap yard
Recreation	Gym; Children's recreation activities and clubs; Football clubs / agents; Caravan / camping sites; Other recreational activities; Entertainment events – dance / music / sport / festivals.
Security	Site
Animals	Pet care / supplies; Dog breeding (puppy farms); Exotic animals (import only)
Care	Nursery (Children); Social Care; Care Homes
Professional Services / Assistance*	Financial / investment; Estate / letting agent; Accountant; I.T.; Insurance; Legal; Money bureau; Immigration advisory; Procurement specialists.

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What SOC looks like in Scotland

Human-trafficking / Modern Slavery

- Fastest growing criminal activity in the world
- Second most profitable criminal industry behind drugs.
- Found in many UK businesses that depend on low skilled workers (e.g. hairdressers, demolition, waste industry, café, restaurants, cleaning, delivery, care).
- Happening all around us (see right)
- Is a SOCG income stream where human beings are exploitable commodities.

📍 Places where human trafficking has been identified in Scotland

⬛ Local Authority areas where human trafficking victims have been recovered

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What SOC looks like in Scotland

SOC is about generating wealth at the expense of others (law-abiding people, including the most vulnerable members of our communities).

The cost of SOCG to the Scottish economy is estimated to be up to £2 billion annually. We pay for it every day, either directly as victims or indirectly by paying for the many services that are required to respond to it.

SOC has a disproportionate impact on Scotland's poorer communities.

Young people can be particularly at risk of exploitation and consequent exposure to harm.

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What SOC looks like in Scotland

Staff can be elicited, pressured, influenced to act by SOCGs for a number of reasons:

- They are linked to a specific supplier, either directly as a director or via family or friend,

- They are receiving a bribe in exchange for a contract, money or other benefit,

- They are being coerced or forced into giving the supplier work, or

- They have independently spotted a means to profit from the pre-tendering, tendering or post-tendering stages.

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What SOC looks like in Scotland

Legitimate businesses lose in many ways:

- Consumers opt to purchase counterfeit goods.

- Lose business (e.g. not winning public contracts) and / or be forced out of business.
- May be threatened, forced to pay protection or participate in or facilitate organised crime.
- May be forced to also adopt underhand tactics just to compete with SOCG for survival.

Businesses operated by, or with strong links to, SOCG can have an unfair advantage over legitimate businesses. They can:

- be funded by criminal proceeds rather than solely from legitimate trading;

- indulge in unfair competition (e.g. price fixing arrangements, abusive price cuts, sales on the black market, e.g. smuggled cigarettes); and

- ignore relevant legislation and regulations (so cutting their costs of operating)

Public services put at risk
- The more money that is spent on tackling the consequences of serious organised crime, the less there is to spend on public services.
- Organised criminals seek to legitimise themselves by bidding for public sector contracts, despite police intelligence linking them to SOC.

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Current Issues

What are the current issues surrounding SOC and SOGC (2022 onwards)?

- **Covid pandemic**
  - Caused considerable disruption to some spheres of criminal activity, but demonstrated the adaptability of SOCG to exploit the new situation quickly to their advantage e.g. SOCG developing new tactics during the crisis to circumvent lockdowns.
  - Increased the vulnerability of many people in Scotland (either as SOCG victims or increasing the likelihood of their SOCG involvement).
  - Post-Covid: SOC model will evolve and thrive at expense of legitimate businesses and vulnerable communities
- **EU Exit**: with no physical controls at the Ireland / UK border, the Irish land border and Common Travel Area routes to mainland GB will remain of concern.
- **Procurement** exploitation / Defending public procurement
- **Partnership arrangements and information sharing**
- **Public sector awareness and resilience**
- SOC '**Lifestyle**' awareness
- **Cybercrime** prominence

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Damage Caused by SOC

Potential damage caused to your organisation from allowing SOCG to infiltrate your supply chains

- **Reputational damage** (or loss of confidence of the community we serve)
- **Business continuity**
    - Damage to the sustainability of the affected supply chain since there is a potential increased risk of supplier failure / supply chain collapse
- **Remediation / Replacement costs**
- **Fines**
- **Other costs** (internal and external), such as cost / diverted time in internal and external investigations, internal disciplinaries, reviews, process changes and training.

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SOC in Procurement

Tender Stage

- Collusion, both between contractors and procurer and bidder

- Pre-tender manipulation

- Bid manipulation – agreeing pricing, submitting false bids

- Bribes and/or kickbacks

- Direct Awards

Contract Stage

- False Invoicing

- Unexplained increase in spend with a supplier

- Lack of monitoring and reporting

- Missing assets or inventory

- No segregation of duties

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SOC in Procurement

Scotland Excel framework agreements

Scotland Excel has around 70 live framework agreements in place. SOC is considered in all our framework agreements when tendering and especially in frameworks where there is evidence of high SOC involvement.

- **Security Framework**:
    - Developed in collaboration with Police Scotland and the Security Industry Authority (SIA).
    - Registered on SIA's Approved Contractor Scheme.
    - Declaration of Non-Involvement in Serious Organised Crime

- **Social Care Agency Framework:**
    - No Collusion Declaration
    - Declaration of Non-involvement in Human Trafficking and Exploitation
    - Declaration of Non-Involvement in Serious Organised Crime

- **Recyclable and Residual Waste Framework**:
    - additional specific questions within the tender were included requiring bidders to declare any convictions, sanctions or recommendations made in relation to licence breaches.

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How SOCG infiltrate public contracts and supply chains.

The public sector is open to SOCG infiltration in its supply chain

- We procure in several of the sectors identified as the sectors that SOCG may invest in and exploit, e.g. property, vehicle / transport, service, environmental, security and care.
- The requirement for transparency meaning external organisations are aware of our procurement processes
- The requirement for competitions open to all allows SOCG organisations to bid.
- Limited ability of contracting authorities to exclude organisations
- High value contracts
- We provide a steady, sustainable, secure and legitimate source of income
- Potentially, contracting authorities may have weak governance

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What can be done?

Consider what business sectors are at risk of SOCG infiltration and therefore what procurements may be at risk.

Regulated procurements:

- Attractive since Higher value and longer term providing steady income
- Forced to open competition to all and difficulty excluding suspected SOCG-linked firms

Unregulated procurements:

- Less attractive since lower value and less certainty of steady income
- But SOCG risk may not be considered pre-procurement and less 'business probity' checks may be caried out, so a SOCG-linked firm may find it easier to access this level.

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What can be done?

- Check associated companies and subsidiaries through e.g. Company Watch

- Ask for statement from supplier on SOC or SOC policy

- Integrate proportionate sustainability, accessibility, cyber security, GDPR etc within specification.

- Ask specific questions at technical element of tender

- Require bidders to sign up to a supply chain code of conduct

- Require approval of sub-contractors

- Have clauses within T&C's and/or ITT

- Have signed certificates

https://sustainableprocurementtools.scot/index.cfm/guidance/security-and-crime/annex-example-procurement-clauses-and-kpis/

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SOC Audit

- How confident are you that your organisation is not at risk of purchasing goods / services from organisations with links to SOC? How have you reached this conclusion?

- Are your procurement, contract management and due diligence procedures robust, fully implemented and being properly followed?
    - Are they regularly reviewed and when did you last review your procurement processes?
    - Do they specifically cover SOCG-infiltration risk?

- Are you confident that your staff with purchasing responsibilities are aware of the risks of transacting with an organisation linked to SOC, and know how to raise any potential concerns about organisations with which you organisation transacts?

- How does the procurement process protect procurement staff from getting undue pressure applied to them? Is there adequate segregation of duties?

- Are your records of supplier details reliably maintained and are they checked and verified sufficiently?

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New Legislation

Economic Crime and Transparency Act 2023 –
(https://www.legislation.gov.uk/ukpga/2023/56/enacted)

- Proactively target organised criminals
- Remove fraudulent organisations from Companies House registers and share information with criminal investigation agencies
- More powers to seize, freeze and recover crypto-assets
- Hold large organisations accountable for malpractice

From 4 March 2024 Companies House has new and enhanced powers to improve the quality and reliability of its data and tackle misuse of the companies register

- Invalid registered office addresses, fraudulently set up companies, will be removed with requirements for a registered office address – no PO Box numbers
- More stringent verification checks on people setting up and managing companies
- Companies must supply a registered email address
- A requirement for subscribers to confirm they're forming a company for a lawful purpose when they incorporate, and for a company to confirm its intended future activities will be lawful on its confirmation statement.
- the ability to share data with other government departments and law enforcement agencies

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DETERing SOC in Procurement Training

Scotland Excel Academy training sessions

DETERing the infiltration of Serious Organised Crime Groups ("SOCG") into public contracts and supply chains

- Wednesday 17 April 2023 – Book through Eventbrite

Further dates will be added for later in the year.

If you require more information please contact:

academy@scotland-excel.og.uk

Good Practice

THANK YOU!

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Q&A

Q - How realistically can you identify collusion / pre tender manipulation by bidders?

A - It is difficult but carrying out robust market research and knowing the commodity you are tendering for along with market conditions does help. Having difficult conversations with service departments and pushing back, where appropriate, can all help to ensure no manipulation in the specification prior to publishing

Q - What do you practically do if you suspect collusion or other SOC activity - how do you report it and to whom?

A - Scottish Government SOC Strategy lists details of where to report concerns at this link Serious Organised Crime strategy - gov.scot (www.gov.scot), along with reporting to the CMA.

Q - What sort of questions could be in your SPD or Tender/verification etc.

A - Questions are dependent on what is being tendered but the SPD should include:

- check of all mandatory and discretionary exclusions
- request proof of bidder holding any necessary authorisations or memberships
- check financial and insurance information
- technical and professional ability information, if appropriate
- supply chain tracking information, if appropriate
- qualifications of staff and proof, if appropriate
- proof of environmental management, quality control, quality assurance, cyber security etc

This along with relevant and proportionate questions within the technical section of the tender depending on the commodity being tendered and declarations being requested. i.e. sub contractors must complete an SPD and be approved by yourself prior to working on the contract. The same could be asked for persons working on a site – CSCS membership and approval of who will work on-site throughout the term of the contract etc. Checks should be carried out throughout the lifetime of the contract to ensure anything requested is being adhered to.

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Q&A

Q - Would anyone involved in SOC not be willing to sign a declaration to say they are not involved anyway - is this really a way to find out if SOC is happening?

A - The declaration asks parties to confirm they are not involved in crime under Sections 28 and 31 of the Criminal Justice and Licensing (Scotland) Act 2010 and cites that misleading or inaccurate information constitutes fraud or grounds for termination of the contract or both.

Q - We've been liaising with Police Scotland recently re SOC and how they would like us to provide them with information prior to our tender award process (I think they're doing the rounds with a few authorities). Whilst we recognise the rationale for this, it doesn't sit easily with procurement legislation - do we know if there will be anything agreed at a more formal level, for inclusion within the procurement journey perhaps?

A - I've attached a link to the Scottish Government Serious and Organised Crime Strategy where you may find further guidance. https://www.gov.scot/publications/serious-organised-crime-strategy/ or Serious Organised Crime Taskforce - gov.scot (www.gov.scot)

Q - Are the Declarations passed onto SOCG to verify/comment on?

A - Each organisation has their own policy for verifying information prior to contract award.

Q - Are the police any more helpful than they used to be when we identify potential SOC issues? The last time I contacted them about this, after quite an extended period, they said that they couldn't help due to data protection considerations. Which sounded like there was an issue with the bidder but wasn't sufficient evidence to allow us to actually address any potential issue.

A - Information contained at this link may be able to help you further in the future Serious Organised Crime Taskforce - gov.scot (www.gov.scot)

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References / Further Reading

- Scottish Government Serious Organised Crime Strategy - *https://www.gov.scot/publications/serious-organised-crime-strategy/*

- Serious Organised Crime Taskforce - *Serious Organised Crime Taskforce - gov.scot (www.gov.scot)*

- Serious Organised crime Taskforce Progress Report 2023 - *Serious Organised Crime Taskforce: progress report 2023 - gov.scot (www.gov.scot)*

- SMASTA 2022 Report - *https://www.scotland.police.uk/spa-media/5itlmput/smasta-2022-official-july-2022.pdf*

- Local Government Association SOC Checklist : https://www.local.gov.uk/sites/default/files/documents/Local%20Authority%20Serious%20and%20Organised%20Crime%20Internal%20Audit%20-%20Checklist%20WEB.pdf

- Criminal Justice and Licensing (Scotland) Act 2010: https://www.legislation.gov.uk/asp/2010/13/contents

- *Serious Organised Crime Taskforce: Progress Report 2023 (www.gov.scot)*

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