

LONDON BOROUGHS OF BRENT AND HARROW

TRADING STANDARDS CONSORTIUM COMMITTEE – 18th March 2009

REPORT NUMBER 8/08 FROM THE DIRECTOR OF TRADING STANDARDS

FOR DECISION

Title of Report: **Proposed Creation of a Proceeds of Crime Team to conduct financial investigations under the Proceeds of Crime Act 2002**

1.0 Summary

1.1 This report informs Members of the need, and the resources required, for the Service to provide additional officers to investigate offences under the Proceeds of Crime Act 2002 (POCA). These officers would be based in Trading Standards and conduct financial investigations into their own cases and would market their services to other internal and external Council departments.

2.0 Recommendations

2.1 That Members agree to the creation of a Proceeds of Crime Team as part of the Trading Standards Service.

2.2 That Members refer their agreement in principle to their respective Councils and recommend each Council to approve the provision as in 2.1 above;

2.3 That Members recommend the necessary set up costs for the creation of this team to their respective Councils so that the necessary growth can be agreed for the year 2010/2011.

3.0 Financial Implications

3.1 Agreement to the recommendations in this report would mean growth in the Trading Standards budget of approximately £97,000 which would be divided amongst the two Councils (For further details see 5.9 below).

4.0 Staffing Implications

4.1 This report recommends the creation a Team Leader post and a Financial Investigator (FI) post as part of the Proceeds of Crime Team. It also details the reclassification of the existing Finance and Administration officer post to provide the necessary support within the proposed new team.

5.0 Details

5.1 The POCA provided much needed powers to enforcement agencies to investigate the finances of those who have been convicted of criminal offences and are suspected of having benefited from their illicit activities. These provisions apply to defendants who have been convicted of certain criminal “lifestyle offences” (such as drug trafficking, money laundering and selling counterfeit goods) or to anyone

convicted of a criminal offence where the benefit figure is more than £5,000. At present only Police Officers are allowed to make cash seizures although other financial investigators, such as Trading Standards Officers, will soon be conferred identical powers to seize monies and other property during their investigations.

- 5.2 An Accredited Financial Investigator can carry out investigations into a defendant's finances and restrain any assets that they think may be moved or dissipated. Following a successful conviction, the evidence of the financial investigation is heard by a Crown Court Judge who can order confiscation of the defendant's assets anywhere in the world. At the same time, the court can impose a sentence (normally custodial) in default should the defendant fail to comply with the confiscation order. This legislation is designed to punish those who have benefited from their criminal activities and, as such, a confiscation order remains in force as a civil debt until the order has been fully complied with. The confiscation order is in addition to any other sentence that the court can impose in relation to the primary offence.
- 5.3 When a confiscation order is paid, the money is split between different parties. Half goes to the Treasury, and the remainder is split into three. One third of this goes to the enforcement body that has carried out the criminal investigation; another third to the organisation responsible for the financial investigation and the final third goes to the agency responsible for collecting the money (usually the court). Therefore, if a Trading Standards conduct both the initial criminal investigation (i.e. counterfeit goods) and the financial investigation then they would be entitled to receive one third of the total amount awarded.
- 5.4 The work of an Accredited Financial Investigator requires wide ranging skills, including forensic accounting and an attention to detail as the investigations can be time consuming and complicated. To qualify as an Accredited Financial Investigator, officers must attend a number of Home Office courses, pass various examinations and complete a practical workbook before they can use the powers contained within the POCA.
- 5.5 A financial investigation will involve numerous court appearances before a judge in chambers to obtain orders to access or freeze bank accounts and other assets. The investigation also generates a great deal of evidence, both documentary and electronic, which builds up a picture of how the defendant has gained from his illegal activities. The cases are generally time-consuming and it is usually a year or more before they come to the Court.
- 5.6 At present, the Trading Standards Service has one fully trained Accredited Financial Investigator who splits his normal enforcement work with conducting financial investigations. There are currently fifteen POCA cases under investigation and a further five are being conducted in conjunction with the Regional Assets Recovery Team. Potentially, there are a number of other cases which could also lead to POCA investigations once successful convictions have been secured under trading standards legislation. The cases that are currently being investigated should generate income through the incentivisation scheme in the near future.
- 5.7 As can be seen from 5.6 above, potentially there are more financial investigations that can be conducted by this Service but, at present, we do not have the

capacity to take other officers away from their front line duties. Furthermore, if Members agree to support the proposal to create a Proceeds of Crime Team, then there is the prospect of marketing our services to other internal and external council departments. Initial enquiries show that there is a demand for this service as a large number of Authorities do not have the necessary skills or resources to conduct their own financial investigations.

5.8 The Service is currently processing more cases than any other London Trading Standards Service Department and its professionalism is widely acknowledged. This report proposes that a Financial Investigation team be set up to build on the success that has already been achieved. This would involve the creation of two extra posts, to form a team of three, with one of the posts being created at Team Leader level to provide a line management structure in accordance with the existing arrangements within the Service.

5.9 To provide the Proceeds of Crime team would involve the creation of a Team Leader post at PO3 and a Financial Investigator at PO3 and PO2 grades respectively. The total amount required in salaries and other costs would be approximately £97,000 per annum which would be apportioned between the two Councils. All other administrative costs would be met from existing resources. Although the set up costs will have to be funded initially by Brent and Harrow, it is envisaged that within two years, the posts would be self financing from income generated through the incentivisation scheme as described above.

5.10 My recommendation is that Members discuss this matter and, if they agree with the implementation of such a service, then they recommend to their respective Councils that this extra funding be considered as committed growth during the budget making process for the Service for 2010/2011.

6.0 Background Information

6.1 Any person wishing to inspect the above documents should contact Bill Bilon, 1st Floor, 249 Willesden Lane, NW2 5JH; telephone 020 8937 5500.

Bill Bilon
Director of Trading Standards