

**London Boroughs of Brent and Harrow
Trading Standards Joint Advisory Board
11 May 2017**

FOR INFORMATION

BRENT & HARROW TRADING STANDARDS PROCEEDS OF CRIME UPDATE

1.0 SUMMARY

- 1.1 This report updates the Joint Advisory Board on work carried out by the Financial Investigation Team since its establishment in 2012 and on the future implications and concerns of work carried out under the Proceeds of Crime Act 2002.

2.0 RECOMMENDATIONS

- 2.1 For Members to consider the report and make recommendations where appropriate including to continue the work of the Financial Investigation Team.

3.0 DETAILS

PROCEEDS OF CRIME ACT 2002

- 3.1 The Proceeds of Crime Act 2002 (POCA) is a piece of legislation used in relation to confiscating money that has been acquired as a result of crime. The Act also provides Accredited Financial Investigators (AFI) with a robust set of powers for investigating, restraining and confiscating assets. Recovering the proceeds of crime is one of the government's top priorities for law enforcement.
- 3.2 In 2012 Brent and Harrow Trading Standards Service established a dedicated Financial Investigation Team to take advantage of the opportunities offered by POCA in terms of ensuring criminals do not financially benefit from wrongdoing and that confiscated proceeds of crime could be used towards the cost of carrying out investigations.
- 3.3 The Government introduced an incentivisation scheme to encourage authorities to use POCA. The scheme is administered by the Home Office and sees local authorities being able to retain a percentage of all successful confiscation orders that they obtain, when they are paid. Full details are found in paragraph 3.8 below.

PERFORMANCE

- 3.5 The Brent & Harrow Financial Investigation Team is well respected within local authority networks. In 2016 our Financial Investigation team were nominated and shortlisted for the prestigious LGA Awards in the innovation category for a continuing successful track record in which they applied POCA to planning cases.

Whilst they did not win the award, the event showed a high recognition for the team's excellence in this area of law. Previously, one of our officers won 'Best Individual' award in the 'Keith Hughes Award Scheme' run nationally by the National Crime Agency, which recognises outstanding performance in the field of financial investigation.

- 3.6 From April 2011 to December 2016 the team received 271 referrals. 73 came from Brent & Harrow Trading Standards, 68 from services within Brent Council, 13 referrals from services within Harrow Council and 44 referrals from other London Boroughs. Although some of these referrals are still under investigation, many will have led to successful confiscation orders. Following each referral, a financial investigation is commenced in order to establish the benefit made from crime and where appropriate cases are then progressed through the Court system using the confiscation regimes set in place by POCA.
- 3.7 Over the years Brent Council has secured a number of successes using POCA. Examples where the team have been successful are outlined in Appendix 1. One of the largest confiscation orders led to a payment of £204,134.25 to Brent Council. In one case during a search by Trading Standards Officers £46,801 in cash was detained by the AFI, which resulted in the court ordering the forfeiture of the cash. A recent restraint order led to a confiscation order of £250,000.

FINANCIAL BENEFITS

- 3.8 When a confiscation order is paid, the money is divided in accordance with the Home Office incentivisation scheme, which means that 50% will be apportioned to the Government. The remaining 50% is divided between the prosecuting authority (18.75%), the investigating authority (18.75%) and the HM Court Service (12.5%). Therefore, where we conduct our own investigations and are also the prosecuting authority, our share under the incentivisation scheme is 37.5%. The Home Office is currently also taking a top slice from the 37.5% ranging from 0% to 3% each quarter to fund their crime initiatives.
- 3.9 Since April 2011 the team has secured 60 confiscation orders. This has resulted in a total £2,053,376.43 payment from the Home Office under the incentivisation scheme. This money has then been distributed to the Local Authorities as follows;

Year	Total Incentivisation Received	Brent & Harrow TS	Other Brent Services	Other Harrow Services	Other Local Authorities
2011/12	£131,925.62	£131,925.62			
2012/13	£78,527.70	£48,527.70	£30,000.00		
2013/14	£483,185.90	£125,639.17	£346,109.77	£11,436.96	
2014/15	£518,650.54	£130,657.88	£367,175.98	£20,816.68	
2015/16	£403,857.67	£141,425.69	£256,684.73	£291.00	£5456.25
2016/17 (up to October 2016)	£437,229.00	£83,992.62	£199,193.36		£154,043.02
Totals	£2,053,376.43	£662,168.68	£1,199,163.10	£32,544.64	£159,499.27

This figure makes Brent Council one of the highest performing local authorities in the whole of the UK in terms of asset recovery.

FINANCIAL INVESTIGATION TEAM

- 3.10 The team consists of two fully trained Accredited Financial Investigators (AFI) who carry out all the financial investigations, source future work for the team and assist colleagues with guidance as to investigations with potential for POCA work.
- 3.11 POCA invests the National Crime agency (NCA) Proceeds of Crime Centre (PoCC) with a statutory responsibility for the training, accreditation and monitoring of financial investigators.
- 3.12 To become an AFI, officers must complete the Financial Investigation Training Programme which comprises three skill-based courses, including Financial Intelligence Officer course, Financial Investigation course and Confiscation course. All three courses require officers to undertake a test before they can start the course as well as successful completion and assessment of a Personal Development Portfolio. The cost of this training is in the region of £3,500. Once qualified, the NCA PoCC will set a number of Continuous Professional Development tasks that AFIs must complete to maintain their accreditation and officers must also update them with a summary of POCA work done.
- 3.13 This Service currently aspires to train the Senior Prosecutor to become an AFI to maintain resilience within the team and expand work capacity at times of strong demand, thereby generating increased revenue. As there is only one supplier of the course there are limited places and as more local authorities are turning to POCA to ease the pressure of the austerity cuts, it is extremely difficult to achieve a place on a London training course. Despite being on the waiting list for a number of months, we have not been offered a place and all 2017 training spaces are oversubscribed. We are reliant on having an available budget if and when any spaces on a course are offered.

OPPORTUNITIES

- 3.14 AFIs are usually structured within local authority's Trading Standards Service as they have been trained in highly skilled investigative techniques as required in this field, have the ability to investigate a range of cases and have obtained courtroom experience.
- 3.15 Increasingly, local authorities have realised that using AFIs can maximise the amount of money that can be reinvested into enforcement and investigations as well as other areas within the remit of the incentivisation scheme. A number have used incentivisation money from POCA investigations to invest in their own AFIs. Therefore there are limited opportunities for the team to increase their work with other authorities as others are keen to undertake the work themselves and retain the full incentivisation scheme awards.
- 3.16 The greatest potential for growth is internal to Brent and Harrow councils, including increasing the areas of large scale criminal investigations within the Trading

Standards team and expanding to services such as Planning Enforcement.

- 3.17 In order for this to be achieved within the Trading Standards team, it is essential that the Service is sufficiently resourced to undertake large-scale and complex cases such as those involving fraud or intellectual property. Current resources and the focus on Council priority areas or work, preclude the proactive investigation of such cases which can take several years to investigate and progress through the legal system.
- 3.18 If the additional resources were made available to the Trading Standards Service, we could establish a proactive service which focused specifically on investigations which may lead to proceeds of crime investigations such as counterfeiting infringements, working more closely with brand holders and where necessary, targeting offenders operating outside of our usual area of jurisdiction.
- 3.19 Particularly key to our ability to grow our Planning Enforcement work will be that Harrow Council utilise this valuable resource of having AFIs and seek to overcome barriers that have limited their current usage. We are keen to continue and grow this area of work and have made a proposal to Harrow's Divisional Director of Commissioning and Commercial Services as to one way of achieving this. This proposal would see a member of Brent's Planning Enforcement team, seconded to work with Harrow's Planning team with the sole purpose of identifying and progressing cases that may lead to potential confiscation proceedings.
- 3.20 The greater use of AFIs has led to the advancement of tools to carry out the mundane recording of financial information such as bank account statements showing ingoing's and outgoings. We have received a quote from the supplier of one such product for this purpose which cost £5,150 for the first year to include set up and training costs and then we would have to pay an annual licence fee of £4,115. These costs have prohibited us access to the software. Such software would be very useful as it not only collates most of the information contained in the statements of the defendants but also present it in a spreadsheet to aid further analysis substantially cutting the amount of officer's time in manually inputting the information, thereby freeing them up to carry out other investigations and generate more revenue.
- 3.21 If we are to remain competitive and maintain our reputation for being a leading authority in POCA investigation, we need to seriously consider the purchase of this software as other authorities would be able to offer this service as a reduced cost due to technological investment. We recommend investing in such a system during the forthcoming financial year.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications for each borough as this is an update on the work carried out by the Financial Investigation team. However, Members may wish to consider whether the business need for investing in a financial investigation software mentioned in 3.20, to increase our capacity by reducing the number of administrative hours currently taken by our two FIs inputting financial records into spreadsheets. Previously, a request was made to senior management to purchase this software which was declined.

5. LEGAL IMPLICATIONS

5.1 There are no legal implications.

6.0 STAFF IMPLICATIONS

6.1 There are no current staff implications.

7.0 BACKGROUND INFORMATION

6.1 Any person wishing to obtain more information should contact Anu Prashar, Senior Prosecutor, Regulatory Services, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ or anu.pashar@brent.gov.uk.

ANU PRASHAR
SENIOR PROSECUTOR

APPENDIX 1

EXAMPLES OF SUCCESSFUL ORDERS UNDER POCA LEGISLATION

- 1.1 A defendant in 2013 was ordered to pay £60,000 under POCA following a conviction which was secured by the Brent & Harrow Trading Standards Service which related to the supply of copyright infringing music. The defendant was given six months to pay the order or face 15 months in prison. He has paid the order in full, of which Brent and Harrow Trading Standards received 37.5%, £22,500.
- 1.2 In another case where the defendant supplied clocked cars from his company was ordered to pay £138,000 under POCA following a conviction which was secured by the Brent & Harrow Trading Standards Service. He was ordered to pay in within six months or face two years in prison. The defendant paid the order in full. Some of the money also went to the victims in the form of compensation.
- 1.3 In a Brent Trading Standards case a confiscation order was made for £43,642.50 in relation to a person who traded in counterfeit goods. Brent Council had seized large volume of goods from this person, including counterfeit toner cartridges. The court gave six months for the order to be paid and since this the order has been paid in full.
- 1.4 In a Harrow Trading Standards case a confiscation order was made for £15,809.95 in relation to a person who traded in counterfeit DVD's. The court gave three months for the order to be paid.
- 1.5 In a Brent Trading Standards case the defendant was jailed for selling equipment designed to circumvent paid-for TV services. This business sold equipment that allowed subscription TV services to be viewed, by passing the payment required by broadcasters. It specialised in providing equipment which allowed viewers in the UK to watch live premier league football matches. During the search of his home and business address the Financial Investigator found £46,801 in cash which was detained under POCA. After the conclusion of the criminal case, Willesden Magistrates court ordered the forfeiture of the cash. The cash seizure order ensures that no benefit was made from money gained through his criminality.
- 1.6 One of the orders was a case against a landlord who had converted a single dwelling property into 9 self-contained dwellings. Brent Council had served an enforcement notice, however the landlord ignored this, so a prosecution was mounted. Following the prosecution Brent Council started Confiscation proceedings in order to recover the rental income that had been made as a result of renting the nine dwellings. As a result of these proceedings an order was made under POCA for £494,314.30 and the defendant was given six months to pay up or serve three years in prison. The defendant has since paid in full and Brent Council received 37.5% of this order, £185,367.86.
- 1.7 Working with a neighbouring London Borough's Planning Service, a landlord was ordered to pay a confiscation order for £382,467. This matter related to a landlord who had converted his property into six self-contained flats without planning permission. He had not complied with an enforcement notice issued by the Council, so legal proceedings were instituted.

- 1.8 In October 2015 a confiscation order for £170,000 for failure to comply with an enforcement notice which related to a property in Brent. The property had been converted into three self-contained flats without planning permission. On the same day a second confiscation order was made at Harrow Crown Court for £17,600 against the same defendant after he failed to comply with another enforcement notice which related to another property on the North Circular Road that had been converted into eight self-contained flats without planning permission. Both orders have since been paid in full and Brent Council received 37.5% of this order, £70,350.
- 1.9 In one Brent planning case a confiscation order was made against a property developer for £1,438,180.59 following the conversion of a property into 12 dwellings without planning permission. Brent Council served an Enforcement Notice in relation to this property in Willesden Lane, NW2, however it was ignored so legal proceedings commenced. This confiscation order was the subject of an appeal and was later reduced to £544,358.00. This order has since been paid in full and Brent Council received 37.5% of this order, £204,134.25.
- 1.10 In another Brent case another confiscation order was made for £494,314.30 under the POCA in relation to a property on Church Road, London, which had been converted into 9 separate dwellings without planning permission. Brent Council had served an Enforcement Notice which had not been complied with. The Court gave six months for the order to be paid and since this the order has been paid in full and Brent Council received 37.5% of this order, £185,367.86.
- 1.11 In a more recent case, a Brent property owner was ordered to pay £158,780.00 following failure to comply with an Enforcement Notice issued by Brent Council against a property in NW2. The enforcement notice was served because the property had been converted into ten self-contained flats without planning permission. The flats were described by the independent surveyor as 'poorly presented' and in need of a 'comprehensive overhaul'. This is another confiscation order that has been paid in full and Brent Council received £59,542.50.
- 1.12 In July 2015 a confiscation order was made at Harrow Crown Court against a seller of counterfeit headphones for £43,642. The order has since been paid in full and Brent and Harrow Trading Standards received £16,365.75.
- 1.13 In some instances, rather than go through a lengthy court procedure regarding confiscation, the defendants agree to a confiscation order of an agreed benefit amount which is endorsed by the court. This occurred on a recent case where the defendant pleaded guilty to possessing and supplying counterfeit DVDs. The order was made for £15,809.95 and was given three months to pay.
- 1.14 POCA allows for assets to be restrained and this can be done prior to a person being charged or summonsed. Over the years Brent Council has secured a number of restraint orders to prevent assets from being dissipated prior to any confiscation order being paid.

- 1.15 The most recent restraint order was sought in March 2016, in a planning case where the proprietor of the property was a limited company registered in the British Virgin Islands and it later transpired the owners lived in Dubai. The restraint was effective and the Council secured a confiscation order of £250,000.