

LONDON BOROUGH OF BRENT AND HARROW

TRADING STANDARDS ADVISORY BOARD – 28th NOVEMBER 2011

**REPORT NO. 03/11 FROM THE HEAD OF CONSUMER AND BUSINESS
PROTECTION**

FOR INFORMATION

**TITLE OF REPORT: Future Proposals for the Formation of a Dedicated Proceeds of
Crime Financial Investigations Team**

1.0 SUMMARY

1.1 This report sets out a business case for the formation of a dedicated Proceeds of Crime Act Financial Investigations Team based in the Brent & Harrow Trading Standards Service.

2.0 RECOMMENDATIONS

2.1 That Members consider the content of the report and comment as appropriate.

3.0 FINANCIAL IMPLICATIONS

3.1 There are a number of financial implications contained within this report that require further consideration by Members.

4.0 STAFFING IMPLICATIONS

4.1 There are proposals contained within the report concerning an increase in the Trading Standards staffing complement.

5.0 DETAIL

5.1 The report containing the specific details and proposals is attached below.

NAGENDAR BILON
Head of Consumer and Business Protection

Future Proposals for the Formation of a Dedicated Proceeds of Crime Financial Investigations Team

1.0 Introduction

- 1.1** The Proceeds of Crime Act 2002 (POCA) provides a robust set of powers for investigating, restraining and confiscating assets that have been acquired as a result of criminal activities. POCA lends itself to the work of Local Authority regulators and can lead to large confiscation orders as the investigations relate to serious criminal offences and involve large scale commercial activities by defendants who usually have available assets which can readily be identified and seized by the courts.
- 1.2** 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, then our share under the incentivisation scheme would be 37.5%. Over the last five years, £1,397,501 has been awarded in financial investigation cases undertaken by the Trading Standards Service, out of which Brent and Harrow's share through the incentivisation scheme has been £571,688.

2.0 Investigations

- 2.1** We now have two fully trained Accredited Financial Investigators (AFI) amongst the Trading Standards Service staff. Apart from carrying out their normal duties they also conduct financial investigations for Trading Standards and are marketing their services to other local authorities who are responsible for investigating criminal offences such as benefit fraud, envirocrime, planning and any other offence where a financial benefit has been made.
- 2.2** There have been a number of recent successes involving Trading Standards investigations. For example, the Service secured a confiscation order for £254,000.00 against a market trader following his successful conviction for supplying counterfeit goods from various stalls at Wembley Market. Another case involved two motor dealers who were found guilty of a major 'car clocking' fraud and were ordered to pay back over £120,000 of their ill-gotten gains. For a list of completed cases, see **Appendix 1**.
- 2.3** The Service is currently conducting a number of separate financial investigations on behalf of Brent and Harrow Councils' Planning Services, all of which relate to properties that have been converted into flats and rented without planning permission. The confiscation process will look to recover the rental income, in some cases amounting to hundreds of thousands of pounds that the defendants have obtained from letting their illegal dwellings. For a list of cases currently being investigated, see **Appendix 2**.

3.0 Benefits

- 3.1** The POCA is not only a very useful tool for punishing criminals who have gained from their illicit activities, but can also generate much needed funds to subsidise the work of

local authority regulators. As such, the Trading Standards Service has taken the initiative by training its own staff to conduct financial investigations for our own cases as well as both internally and externally for other Council service areas. Both Brent and Harrow Councils have recognised that there is potential to increase the provision of our accredited financial service to other internal and external Council Departments, thereby subsidising the funds that they contribute to their respective annual Trading Standards budget. Savings of £25k for each borough were built into the 2011-12 budget. This note considers the feasibility of increasing the work to be undertaken to deliver additional savings totalling £100k for each borough over the period to 2014-15.

3.2 The table below shows the proposed net savings to be achieved from POCA.

	2011-12	2012-13	2013-14	2014-15
Net Savings - Brent	£25K	£75K	£100K	£125K
Net Savings - Harrow	£25K	£75K	£100K	£125K

3.3 At present, the AFIs are conducting their financial investigations alongside their normal Trading Standards duties and from within existing budgets without any additional contributions from the two Authorities. It is believed that the current £25k contribution to each borough and a further £25k each can be delivered from the existing resources and arrangements.

3.4 The proposal is to set up a dedicated team to conduct POCA investigations and market their services to internal and external Council services. It is further proposed that any funds received through these means are used to fund the work of the POCA team without impacting on the front line work that is carried out by Trading Standards Officers whilst maintaining the current staffing levels. To free the existing officers to concentrate solely on POCA work, will require taking on additional enforcement resource. This resource will not only ensure that POCA investigations can be pursued but will help ensure that there are sufficient prosecutions of serious offences to provide the foundation for future financial investigations.

3.5 Any funds generated through the Home Office Incentivisation Scheme cannot simply be given to both Councils at the end of any given financial year. Apart from the fact that there is a Home Office condition to use the incentive monies to promote further enforcement work, any such funds must be set aside in a reserve account, which can then be carried forward to accommodate fluctuations in income. This will, therefore, provide some level of stability for the continuation of this work.

4.0 Recommendations

4.1 With the current financial pressures on local authorities, POCA offers an ideal opportunity to market the services of our AFIs and to generate sufficient income to subsidise our regulatory services. The attached spreadsheet (see **Appendix 3**, a copy of which will be provided to Members prior to the meeting) shows the cost of setting up a POCA team and the level of income that will be required over the next four years in order to meet the following recommendations:-

- i. To set up a dedicated team to conduct financial investigations under the POCA
- ii. To provide a financial investigations service to other regulators both internally within Brent and externally to other Councils.

- iii. In the long term maintain the existing Trading Standards staffing complement, by replacing the two AFIs, which will enable the detection and prosecution of offenders, therefore, leading to financial investigations under the POCA. It is clear that income for which confiscation orders have already been made and which is expected in 2012-13 is sufficient to allow one such appointment and it is intended to progress in a phased manner with one immediate appointment with the other to follow when the income stream is established.
- iv. Use the income from the POCA incentivisation scheme to subsidise the Trading Standards budget thus reducing the contribution that is currently being made by the London Boroughs of Brent and Harrow by a further £100,000 each over three years.

Appendix 1

Completed Cases

Case Number	Order obtained (Available amount)	Benefit Total	Date of order and AFI	Brent or Harrow	Payment made/received
1	£400,000.00	£400,000.00	Aug 2006/RART	Harrow	Order paid in full. Incentivisation = £132,000.00
2	£30,000.00	£30,000.00	Nov 2008/RART	Brent	Order paid in full. Incentivisation = £11,250.00
3	£55,000.00	£55,000.00	Mch 2009/LW	Brent	Order paid in full. Incentivisation = £20,625.00
4	£3,000.00	£3,000.00	Oct 2009/LW	Harrow	Order paid in full. Incentivisation = £1,125.00
5	£6,000.00	£6,000.00	Oct 2009/LW	Harrow	Order paid in full. Incentivisation = £2,250.00
6	£40,000.00	£40,000.00	Oct 2009/LW	Brent	Order paid in full. Incentivisation = £15,000.00
7	£62,879.38	£1,500,000.00	May 2010/RART	Harrow	Order paid in full. Incentivisation = £23,579.88
8	£61,694.38	£1,500,000.00	May 2010/RART	Harrow	Order paid in full. Incentivisation = £23,135.39
9	£254,000.00	£600,000.00	Aug 2010/LW	Brent	Order paid in full. Incentivisation due £95,250.00
10	£110,113.00	£1,112,431.57	Nov 2010/LW	Harrow	4 months to pay - Incentivisation = £41,292.38
11	£269,815.00	£269,815.00	Mch 2010/LW	Brent	6 months to pay – Incentivisation = £101,180.63
12	£100,000	£100,000	Oct2011/RART	Brent	6 months to pay – Incentivisation = £37,500
13	£5,000	£5,000	Oct2011/RART	Brent	6 months to pay – Incentivisation = £1,875
	£1,397,501.76	£5,621,246.57			Total Received = £324,215.27 Total O/S = £247,473.01 Total Orders = £571,688.28

Appendix 2

Current Trading Standards Financial Investigations

Case Number	Borough	Details
1	Harrow	Relates to supply of counterfeit goods from EBay. Restraint order in place against three properties. This case is in the court system (crown court) with a guilty plea. A POCA has been set timetable has been set
2	Harrow	Trade mark infringing goods – criminal case not yet in the court system
3	Brent	Copyright infringing goods seized – criminal case not in the court system yet
4	Brent	Relates to the supply of counterfeit goods online. Restraint order put into place. Case in the court system with a guilty plea. POCA timetable has been set
5	Brent	Willesden Market job from 15 th December 2009 – counterfeit goods. Case is in the court system (crown court) and a guilty plea has been entered. POCA timetable has been set – restraint order obtained against two properties
6	Brent	Relates to the supply of counterfeit goods – case still currently being investigated and not in the court system yet
7	Brent	Wembley market job from 25 th April 2010 – supply of counterfeit goods. Criminal case is in the court system
8	Brent	Criminal case relates to the sale of clocked cars. Warrants have been executed – financial investigation has revealed assets and restraint orders have been put into place (Nov 2009) relating to four properties. Criminal case is in the court system
9	Brent	Counterfeit goods – legal proceedings in progress – A restraint order has been secured against one property, however upon application by the defence the restraint order was discharge by order of the court

Cash Seizures

Case Number	Borough	Details
1	Brent	£3,000.00 seized on 26 th January 2010 – forfeiture order made 24/9/10
2	Brent	£2,610.00 seized on 26 th January 2010 – forfeiture order made 5/1/2011
3	Brent	£40,002.06 seized on 22 nd March 2011 from a business premise – detention granted 23 rd March 2011 for six months – £4,460.00 + €2,900 seized from House, detention granted for six months – continued detention hearing listed for 13 th September 2011
4	Brent	£3,410.00 and €2,970.00 seized on 23 rd Oct 2011 – 6 months detention granted

External Financial Investigations

Case	Department and AFI investigating	Details
1	Brent Council's Planning Service	Case relates to a property known in Willesden which has been converted into 12 flats without planning permission. Enforcement notice not complied with hence legal proceedings. Confiscation proceedings currently being challenged due to the defendant's mental health. Restraint order out into place against three properties
2	Brent Council's Planning Service	Case relates to a property in Wembley which has been converted into flats without planning permission. Enforcement notice not complied with hence legal proceedings. Confiscation hearing is listed for 15 th Nov 2011
3	Brent Council's Planning Service	Case relates to two properties in NW10 which have been converted into flats without planning permission. Enforcement notice not complied with hence legal proceedings to be started. Confiscation proceedings to be commenced
4	Brent Council's Planning Service	Case relates to four properties all of which have been converted into flats without planning permission. Enforcement notice not complied with hence legal proceedings to be started. Confiscation hearing is listed for 3 rd Feb 2011
5	Brent Council's Planning Service	Case relates to a property which has been converted into flats without planning permission. Enforcement notice not complied with hence legal proceedings started. Confiscation proceedings started, mention listed for 8 th Dec 2011
6	Harrow Council's Planning Service	Case relates to a property in Harrow which has been converted into flats without planning permission. Enforcement notice not complied with hence legal proceedings to be started. Confiscation proceedings to be commenced

Case	Department and AFI investigating	Details
7	Harrow Council's Planning Service	Case relates to two properties in Harrow, which have been converted into flats without planning permission. Enforcement notice not complied with hence legal proceedings started. Confiscation proceedings to be commenced
8	Harrow Council's Benefit Fraud Service	Case relates to benefit fraud