

**Decision Session - Cabinet Member for
Crime & Community Safety**

1 May 2012

Report of the Assistant Director of Housing and Public Protection.

Proceeds of Crime

Summary

1. The purpose of this report is to inform the Cabinet Member of the trading standards service's activity under the Proceeds of Crime Act 2002 ('the Act') (POCA), and seek agreement on the priorities for spending receipts under the Home Office's Asset Recovery Incentivisation Scheme (ARIS).

Background

2. The Act enables the police and other enforcement bodies, like trading standards, to recover the criminal assets of those people living off the proceeds of crime. The object being to help ensure that 'crime doesn't pay'.
3. Financial investigators (AFIs) undertake this work. They are accredited by the National Police Improvement Agency after receiving specialist training. They are given specific powers to conduct investigations into the origin of an offender's assets. The City of York Council's (CYC) trading standards team have three AFIs (one is seconded to the Yorkshire & the Humber Trading Standards Group Regional Scambuster Team). These officers are not solely engaged in undertaking financial investigations but carry out this work as part of their normal investigation duties.
4. AFIs' powers enhance criminal investigations in a number of ways. Firstly, they can investigate specific 'money laundering' offences contained within the Act to tackle those people who help handle and hide criminal property, usually cash. Secondly, they are authorised to seize cash (sums over £1000) from offenders and begin proceedings to forfeit that money. Thirdly, and most

significantly, as far as CYC are concerned, they are responsible for preparing 'confiscation proceedings' in certain cases. These proceedings occur in cases where offenders have made significant sums from their criminal conduct.

5. On 5 June 2008, the Executive Member for Neighbourhood Services approved a report supporting the use of proceeds of crime legislation to help deter and detect criminal activity, particularly that arising from those involved in supply of counterfeit products. Since that time, officers have secured their first convictions for money laundering, have made their first cash seizure (£3500 seized from a person suspected of supplying illicit tobacco) and obtained over £565k from criminal activity in 'confiscation proceedings' (of which £132K has been paid to CYC under ARIS). All of the 'confiscation proceedings' concluded to date have been in relation to the supply of counterfeit products. However, CYC AFIs are now being tasked to conduct confiscation proceedings into rogue trading offences taken by other local authority trading standards services, and enforcement agencies such as Veritu Limited who investigate benefit fraud in CYC, North Yorkshire County Council and Ryedale District Council. CYC entered into agreements to undertake this work on the basis that CYC receives a share of the recovered assets through the Home Office Asset Recovery Incentivisation Scheme (ARIS).
6. Under ARIS, half of any money recovered (and repaid) under the confiscation proceedings is retained by the government, the remaining half is 'shared' as follows:-
 - Investigator – 18.75%
 - Prosecutor – 18.75% and
 - Enforcement (Court) – 12.5%
7. Where the investigation and prosecution is carried out by the same agency, for example in cases brought by the CYC trading standards, both shares of the ARIS monies are paid to that agency. In cases prosecuted by other agencies CYC only receives the investigator's share. The ARIS 'rules' for cash forfeitures are different in that the agency seizing the cash receives 50% share of the forfeited amount. If the offender has the ability to pay prosecution costs after the 'confiscation proceedings' have concluded these are also recoverable.

Annex 1 contains details of the cases, the amount of the confiscation award and the amount received by CYC through costs through ARIS to date.

8. The Home Office specify that at least a portion of ARIS payments should be used to further drive up performance on asset recovery and, where appropriate, to fund local crime fighting priorities for the benefit of the community. It is a matter for each agency to determine precisely how to spend the allocation but it must be spent 'as soon as practicable'.

9. CYC have prioritised the spending of ARIS receipts as follows:-

i) Maintaining CYC's ability to undertake Proceeds of Crime work

This includes paying for officers' accreditation fees, relevant CPD training to maintain accreditation and funding specialist counsel to represent CYC in confiscation proceedings

ii) Expanding CYC's capacity to undertake Proceeds of Crime work

This includes training an additional officer to become an accredited financial investigator, the purchase of specialist software to scan and analyse bank statements and temporary additional staff to assist with the processing of large volumes of financial records.

iii) Training CYC officers in the public protection group to the required level of competence to undertake complex criminal investigations.

iv) Part funding a prosecutions solicitor in legal services to undertake criminal prosecution work to 'free up' officer time to undertake more complex investigation work.

This includes training all trading standards enforcement officers (as well other officers in environmental health and licensing services) to BTEC Level 7 in Advanced Investigative Practice

v) Local crime reduction initiatives.

This includes payments for target hardening schemes.

In addition to CYC ARIS monies, ARIS payments received by the York based Regional Trading Standards Scambuster Team have been used to sustain and enhance regional trading standards enforcement capability and improving CYC's ability to gather/interpret intelligence on rogue trading issues (on behalf of the 11 local authority trading standards services in the Yorkshire and the Humber Trading Standards Group).

10. It is important to note, that there can be considerable time between commencing an investigation and receiving ARIS money where it is awarded. If there is an award in our favour, the defendant is likely to be given time to pay. For example, one of the 2008 awards was not paid until 2011 as it involved the sale of numerous properties.

Proposed Prioritisation for Spending Future ARIS Receipts

11. The first priority for spending POCA receipts will be to maintain and, where practical expand, CYC's capacity to undertake POCA investigation and related prosecution work. This will include meeting the costs of undertaking legal proceedings, training relevant officers and maintaining their statutory accreditation, funding specialist legal and technical support to progress investigations and part funding the appointment of a prosecutions solicitor to free up trading standards senior manager time to supervise these increasingly complex investigations.

The second priority will be to use for local crime reduction initiatives to target priorities set out in the York Community Safety Plan. Monies will be made available to the relevant Crime or Anti Social Behaviour delivery group, based upon the reasons for the asset confiscation. The relevant delivery group, through use of the National Intelligence Model and other evidence based techniques will identify the local scheme / project that will have greatest impact on crime reduction within the City of York. The allocation of any monies will be managed through the Safer York Partnership Board. Feedback on which schemes have been taken forward will be passed back to the trading standards service.

Spending priorities for POCA receipts in cases taken on behalf Yorkshire & the Humber Trading Standards Group Regional Scambuster Team will be determined by the executive of that group. The investigation and prosecution of these cases is

undertaken using grant monies to fund regional and national trading standards enforcement.

Consultation

12. There is no consultation associated with this report.

Options

13. The Cabinet Member is asked to consider the following options:-
 - a) To note the report and approve the spending of ARIS receipts in accordance with the priorities detailed in paragraph 11 above.
 - b) To note the report and recommend a different list of spending priorities.

Analysis

14. Option 1 will increase CYC's ability to recover assets obtained from crime, develop the relevant skills of officers and provide a source of funding for appropriate community projects. It enhances CYC's ability to provide an effective cross boundary regional trading standards service enforcement function. It also ensures that the CYC meets the Home Office guidelines for spending ARIS payments.
15. Option 2 may limit CYC's ability to undertake POCA investigation work and put at risk the outcome of future confiscation legal action.

Council Plan

16. Effective use of proceeds of crime legislation supports the council priorities to "Protect jobs and grow the economy" and "Protect vulnerable people".

Implications

17. **Financial** The 'day to day' cost of financial investigations is met from existing budgets. Where CYC conduct investigations on behalf of other agencies those agencies agree to meet the cost of bringing proceedings.

18. **Human Resources (HR)** There are no human resource implications associated with this report.
19. **Equalities** There are no equalities implications associated with this report
20. **Legal** There are no legal implications associated with this report.
21. **Crime and Disorder** The purpose of POCA is to take the profit out of crime.
22. **Information Technology** There are no IT implications associated with this report.
23. **Property** There are no property implications associated with this report.
24. **Other** There are no other implications associated with this report.

Risk Management

25. There are no known risks associated with this report.

Recommendations

26. The Cabinet Member is asked to note the report and approve Option 1.

Reason: To maintain and enhance CYC's ability to undertake proceeds of crime investigation and asset recovery work and to comply with the Home Office guidance on spending Asset Recovery Incentivisation Scheme payments.

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Report Approved



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17 April 2012

Specialist Implications Officer(s)

None

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

Home Office Asset Recovery Incentivisation Scheme Guidance

Annexes

Annex A. CYC Confiscation Awards and ARIS receipts