

Report of the Corporate Director of Economy and Place

National Trading Standards

Summary

1. To provide the Executive Member with an overview of the activities of the National Trading Standards Regional Investigations and eCrime Team hosted by City of York Council.
2. To seek the approval of the Executive Member for a revision to the distribution of Proceeds of Crime Act monies received under the government's Asset Recovery Incentivisation Scheme.

Recommendation

3. That the Executive Member approves the revision to the distribution of the Asset Recovery Incentivisation Scheme (ARIS) monies received from National Trading Standards Regional Investigations and eCrime Team (NTS) prosecutions in accordance with paragraph 13.

Background

4. City of York Council hosts two enforcement functions on behalf of the National Trading Standards Board (NTS). The two functions are grant funded on an annual basis by NTS and are regional investigations (RIT) and national eCrime investigations (eCrime).
5. Each region in England has a NTS regional investigations team and there is one team in Wales. There is only one NTS eCrime team operating in England and Wales which is provided by a partnership between City of York Council (CYC) and North Yorkshire County Council (NYCC). The responsibilities in the partnership are CYC undertakes eCrime criminal investigations / prosecution and NYCC provides a digital forensics laboratory, undertakes illegal website disruption, and provides training / support to local authority trading

standards services and coordination / promotion activities. The NYCC aspects of the eCrime partnership are also grant funded by NTS.

6. The cases investigated by CYC RIT and eCrime s are complex involving significant number of (often vulnerable) victims. Where prosecutions are taken the cases are invariably heard or tried in the Crown Court and often result in lengthy trials with multiple defendants. In 2017/18 the time spent in Court at trial exceeded 60 weeks and at one point trials were running simultaneously at Manchester, Leeds and Teesside Crown Courts. 22 individuals were convicted or had confiscation orders made under the Proceeds of Crime Act 2002. Prison sentences totalling over 60 years were imposed and Confiscation Orders of £3,562,840 made from which £287,866 compensation was awarded to 369 victims. In one eCrime case it was established that there were over 1 million victims many of who were York residents.
7. Investigations are tasked to RIT and eCrime differently. RIT cases are tasked from the Regional Tactical Tasking and Coordinating Group (RTTCG) which consists of representatives of from the Yorkshire and the Humber group of local authority trading standards services (YAHTSG). ECrime cases (and some other cases of national importance) are tasked by the NTS National Tasking Group (NTG) which is administered by the NTS Programme Office and consists of a small group of heads of service from local authorities. NTG tasked cases are usually supported by additional grant funding.

The Proceeds of Crime Act

8. RIT and eCrime have the capacity to carry out financial investigations under the Proceeds of Crime Act 2002 (POCA). These are either carried out by accredited financial investigators in the team or (in the case of the larger cases) in partnership with the NE Regional Asset Recovery Team based with West Yorkshire Police.
9. ARIS is a Home Office scheme whereby a proportion of any monies paid to the Courts under a Confiscation Order is paid back to the agency involved in bringing the case. At the time of writing the Home Office has determined these proportions to be: 50% returned to central government, 12.5% retained by the court, 18.75% retained by the investigator and 18.75% retained by the prosecutor. In RIT and eCrime cases CYC are both the investigator and prosecutor and therefore receive 37.5% of any monies received under a Confiscation Order. The Home Office Guidance on ARIS states incentive 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 should be noted that not all Confiscation Orders are paid in full and several defendants have been given custodial sentences for defaulting on their Confiscation Orders.

10. CYC RIT and eCrime receipts under ARIS have been as follows:

2013/14	£2,760.63
2014/15	£370,615.58
2015/16	£149,057.99
2016/17	£0
2017/18	£4184.97
2018/19	No notification as at 29/08/18 although receipts are anticipated

11. Under the terms of the council's grant agreements with NTS 50% of any POCA monies received by CYC through ARIS have to be returned to NTS. In accordance with a decision made by the Cabinet Member for Crime and Stronger Communities on 7th June 2013, 25% of any receipt is paid to YAHTSG to fund regional trading standards projects and 25% is retained by CYC for spending on local issues.

Proposal

12. The proposal is that the 25% of the ARIS monies received from eCrime prosecutions is no longer paid to YAHTSG but is to be available (via NTS) to NYCC to develop and enhance the digital forensics capacity to support the work of CYC eCrime investigators. Examples of these improvements will (subject to monies received) include:

- Enhanced forensic analyst capacity
- Increased capacity and resilience of NUIX system (the software used by CYC investigators to review the digital evidence in a case)
- Enhanced support to deal with increasing numbers of passcode locked and encrypted mobile phones
- Achieving and maintaining ISO17025 accreditation (a standard that all digital forensic labs are now being expected to achieve)

Consultation

13. The YAHTSG Executive has been consulted on the proposal. They accept that YAHTSG do not have any direct involvement in the tasking or supervision of eCrime cases and are in agreement that 25% of ARIS receipts from eCrime cases should be reinvested in the NTS eCrime function rather than to support regional trading standards projects.
14. NTS have been consulted on the proposal and have agreed to hold any monies, as part of the NTS accounts, for the purpose of NTS eCrime service improvement.

Options

15. OPTION A. To pay 25% of any future ARIS receipt from an eCrime case to NTS for those funds to be available to NYCC for development and support of the eCrime function.
16. OPTION B. To maintain the current position which is to pay 25% of all ARIS receipts from RIT and eCrime cases to YAHTSG to support regional trading standards projects.

Analysis

17. Option A. This will assist trading standards eCrime enforcement to keep pace with fast changing technological developments in an area increasingly exploited by criminals and rogue traders. Hardware/software/training and technological expertise to undertake complex and legally sound investigations are all expensive and reinvesting ARIS receipts in this function will strengthen the CYC / NYCC partnership and keep it at the forefront of this work. All York residents who conduct transactions over the internet will benefit (directly or indirectly) from this investment.
18. Option B. This will restrict development of the CYC and NYCC NTS eCrime partnership and may result in ARIS receipts being spend on regional trading standards projects which may not directly (or indirectly) benefit York residents.

Council Plan

19. This proposal contributes to the corporate council priorities in the Council Plan as follows:

- A prosperous city for all.
- A focus on frontline services

Implications

20. Financial – There are no financial implications.
21. Human Resources (HR) - There are no HR implications.
22. Equalities – There are no equalities implications.
23. Legal – There are no legal implications to the council arising from this report.
24. Crime and Disorder – This proposal will assist in protecting residents from fraudulent trading on the internet.
25. Information Technology (IT) – There are no IT implications.
26. Property – There are no property implications.
27. Other – There are no other implications.

Risk Management

28. The risks associated with the various options are described in the report.

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Corporate Director of Economy and Place

Report **Date** 4 September 2018
Approved

Specialist Implications Officer(s) List information for all

N/A

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

For further information please contact the author of the report