

BUCKINGHAMSHIRE COUNTY COUNCIL AND SURREY COUNTY COUNCIL
JOINT TRADING STANDARDS SERVICE COMMITTEE

DATE: 2 MARCH 2015

LEAD OFFICER: STEVE RUDDY
HEAD OF TRADING STANDARDS

SUBJECT: PROCEEDS OF CRIME UPDATE

SUMMARY OF ISSUE:

This report outlines the purpose of the Proceeds of Crime Act and how the joint Trading Standards service has successfully utilised the legislation and the associated asset recovery scheme.

RECOMMENDATIONS:

It is recommended that the Trading Standards Joint Committee consider the options for using the additional assets that have been recovered under the scheme and agree that these resources are targeted at issues identified in partnership with the local Community Safety teams tackling local crime priorities.

REASON FOR RECOMMENDATIONS:

The Joint Committee has budget, policy and performance responsibilities for the shared service and the members represent the interests of each partner. It is appropriate that the Joint Committee provides a policy steer to ensure that assets recovered from Proceeds of Crime activity are focused on tackling local crime priorities.

DETAILS:

1. The Proceeds of Crime Act 2002 (“POCA”) sets out the legislative scheme for the recovery of criminal assets with criminal confiscation being the most commonly used power. The aim of the asset recovery in POCA is to deny criminals the use of their assets, recover the proceeds of crime and disrupt and deter criminality.
2. Key provisions of the Act are:
 - a) Confiscation orders: If a defendant is convicted of an offence or offences in the Crown Court or has been committed to the Crown Court for sentence they may be considered for a Confiscation Order.
 - b) Restraint orders: Issued by the Court, Restraint Orders prevent a person subject to a criminal investigation or criminal proceedings dealing with any

realisable property to prevent the dissipation of assets that could be subject to a Confiscation Order in the future.

- c) Production orders: Issued by the Court and served on bodies that may hold information about assets.
 - d) Money Laundering: Covers various offences including the use, concealment or transfer of criminal property (including money) or entering into an arrangement to retain, use or control criminal property.
3. The monies are collected through HM Courts and Tribunal Service. Once paid by the convicted defendant, any money is transferred to the Home Office and subsequently partly distributed back under the Asset Recovery Incentivisation Scheme (ARIS).
 4. ARIS allows for the return of up to 37.5% of those assets recovered following the conviction of criminals to the investigating and prosecuting authority. (Investigation 18.75% / prosecution 18.75%).
 5. The financial incentives are intended to further boost asset recovery, fund local crime fighting priorities for the benefit of the community and to reduce crime.
 6. Since 2010, more than £746 million of criminal assets have been seized nationally (to 2013/14). Over the same period, assets worth more than £2.5 billion have been frozen, thereby denying criminals access to these resources. A total of £93 million has been returned to victims.
 7. The Proceeds of Crime Act provides a number of investigative powers. For example, the ability to apply for production orders and disclosure orders especially needed for Banks and Financial Institutions. It also allows for the “restraint” or “freezing” of assets to prevent dissipation prior to a Confiscation Order being made. The Service conducts investigations under POCA and our Accredited Financial Investigators (AFI) are deemed “appropriate officers” to provide the Crown Court with the necessary information to obtain production orders and request confiscation orders. The Joint Service now has a specialist team including three Accredited Financial Investigators together with specialist support.
 8. The Service has been providing specialist Financial Investigator support to Districts and Boroughs with payment via ARIS (*or at a cost recovery basis*). This has resulted in additional ARIS payments (12.5%) from cases taken by those authorities for infringements of planning legislation and illegal benefit claims.
 9. The actual use of ARIS money is a matter for each authority (within the guidelines). The Home Office monitors the use of ARIS money each year and a monitoring form must be completed which details:
 - a) how much was received under the Scheme.
 - b) how the funds were used (where applicable, how unspent funds will be used).
 - c) each initiative or project giving costs as appropriate.

- d) how this has contributed to improving asset recovery performance or tackling crime.
10. Nationally, over 90% of ARIS money is re-invested in asset recovery work (for financial investigators and their associated direct costs) - the balance is spent on specific operations and community projects. Until now, the recovered assets have primarily covered the Service's cost including legal fees. Any small surpluses have been used on initiatives to raise awareness around doorstep crime and scams by producing promotional material for residents. The Service also has a potential "repair fund" scheme able to be used quickly for essential property work to be completed when a rogue trader has been stopped from carrying out work, or where a "repair" has caused significant problems. The aim is to provide a rapid solution for vulnerable residents and keep them in their home. To date, it has not been necessary to draw on this fund.
11. For the first time this year it is anticipated that the recovery of assets will significantly exceed the costs incurred and hence resources will be available to invest in other crime reduction or prevention initiatives, subject to the Home Office guidance on the use of such recovered assets.
12. The amount of money available has increased due to a number of significant cases and the work of AFIs for other authorities.
- a) The Service assisted a London Borough Planning Department on a confiscation order of £81,543 and will receive 12.5%
 - b) Two men have been ordered to pay more than £50,000 after running an unauthorised airport car park in Mid Sussex District Council. Bucks and Surrey Trading Standards will receive 12.5%
 - c) A man who sold counterfeit DVDs online was ordered to pay nearly £500k so the Service now stands to receive over £185k
 - d) A rogue builder that was convicted following investigation by the Service has to pay compensation, by means of a Confiscation Order, to his victims totalling £114k.

Future Options and Proposals

17. In 2016/17 Trading Standards is anticipating a potential total of just over £200k to be available under ARIS, subject to several defendants making their actual payments as required by their respective Confiscation Orders.
18. The current cost of the Accredited Financial Investigation team including support and legal costs is £120k. This means that the Service is likely to have approximately £80,000 available to invest in appropriate crime reduction and crime prevention initiatives. The Joint Committee will recall that under the terms of the Inter Authority Agreement, any additional pressures and assets will be shared in the agreed ratio and hence should support initiatives in Buckinghamshire and Surrey in that ratio.

19. The subject was considered at the meeting of the Trading Standards Board meeting in January 2016 and it was agreed that the Community Safety teams in each county should be approached to consider what initiatives to tackle crime priorities would be best to utilise the additional resource.
20. In Surrey, tackling domestic violence is a key issue and the Community Safety Team has identified a pilot project aimed at engaging with offenders in order to change behaviour. The project as outlined in Annex 1 is an example of the potential use for assets recovered under ARIS.
21. It is proposed that Officers continue to develop the proposals with the Surrey and Buckinghamshire Community Safety teams.
22. The Joint Committee is asked to note the current position in relation to Proceeds of Crime and appropriate use of assets recovered. The Joint Committee is asked to provide a policy steer for officers which complies with the guidance from Home Office on the use of any surplus in the year ahead.

CONSULTATION:

23. The Trading Standards Joint Management Board has been consulted.

RISK MANAGEMENT AND IMPLICATIONS:

24. All significant risks affecting the Service are considered by the management team each quarter. The report summarises the limits on the use of recovered assets and on the need to report regularly to the Home Office to ensure appropriate use.

FINANCIAL & VALUE FOR MONEY IMPLICATIONS:

25. Asset recovery is used firstly to pay for the cost of employing and supporting Financial Investigators. Assets recovered in excess of those costs are able to be utilised as set out above. There are no implications for the overall costs of the Joint Service.

LEGAL IMPLICATIONS:

26. The Inter-Authority Agreement completed by Buckinghamshire and Surrey County Councils prior to the launch of the Service in April 2015 provides the legal framework within which the Service is operating. This is working effectively and there is no current need to amend this in any way. Managers in the Service will continue to keep this under review.

EQUALITIES & DIVERSITY:

27. Equalities and Diversity issues will form part of the consideration when deciding how exactly recovered assets will be used.

WHAT HAPPENS NEXT:

28. Discussions with the Community Safety teams in both counties will continue taking into consideration the views of the Joint Committee.

29. Specific proposals will be finalised and a project plan developed. The portfolio holders in both counties will be consulted again at that stage. Projects will be initiated and delivered in 2016/17 and the appropriate information reported to the Home Office as required and brought back to a future Joint Committee or Joint Service Board meeting.

REPORT DETAILS

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Consulted:

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Annexes:

Annex 1 - Perpetrator Pilot Scheme

Sources/background papers:

None

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