

DECISION-MAKER:	CABINET		
SUBJECT:	OPERATION ALBACORE (MULTI COUNCIL CRIMINAL PROSECUTIONS) - RECEIPT OF COMPENSATION PAYMENT AND URGENT ACTION TAKEN BY THE DIRECTOR OF LEGAL AND GOVERNANCE		
DATE OF DECISION:	18 JUNE 2019		
REPORT OF:	DIRECTOR OF LEGAL AND GOVERNANCE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Rosie Zambra	Tel: 023 8083 4044
	E-mail:	Rosie.zambra@southampton.gov.uk	
Director	Name:	Richard Ivory	Tel: 023 8083 2794
	E-mail:	Richard.ivory@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY	
Not Applicable	
BRIEF SUMMARY	
<p>On the 12th April 2012 Southampton City Council Trading Standards received a referral from Consumer Direct regarding an elderly Southampton resident who paid £3200 to 1st Active Drainage for a new boiler. This complaint was the beginning of what is known as "Operation Albacore".</p> <p>On the 1st October 2013 Southampton Trading Standards along with the police, Hampshire , Portsmouth and Dorset Trading Standards Officers raided 7 premises and arrested 7 people, the Director, office manager and 4 drainage engineers. Two weeks later further arrests were made.</p> <p>The investigation identified a significant number of victims many of whom, circa 860 in total, had been contacted by in the course of the investigation providing witness statements to support the criminal proceedings instituted by the Council as lead authority. 177 of these victims have subsequently been put before the court to give evidence in the trials It is these 177 persons, majority elderly, who will be paid compensation.</p> <p>In November 2015 12 defendants were charged with conspiracy to defraud and money laundering offences.</p> <p>The trial began in January 2018 and continued for 5 months. The jury returned the verdicts on the 14th June 2018, details of which are below.</p>	
RECOMMENDATIONS:	
(i)	That Cabinet notes the urgent action taking by the Director of Legal and Governance under delegated powers to accept the voluntary undertaking to the court on behalf of Joseph ASHFORD to pay a further £616,000 'compensation to the council' to the effect that Joseph ASHFORD pays the sum in monthly instalments each of which is no less than £40,000. Further, that in the event that any one payment is in excess of £40,000 the excess balance can be carried forward. The total value to be paid no later than August 2020. In

	response to this the council will defer institution of further confiscation proceedings, retain the existing £720,000 property on restraint, and, on conclusion of all payments totalling £616,000 undertake to withdraw further proceedings
REASONS FOR REPORT RECOMMENDATIONS	
1	OP ALBACORE concerned large scale fraudulent drainage, plumbing and heating work carried out in residential properties across the south and south west of England in the period November 2009 to October 2013 by 1 st Active Drainage Ltd and Fast Response Maintenance Ltd. Joseph Rodney ASHFORD was a director of both companies and both were managed by James Frances DEAN. Work was carried out by, amongst others, Justin Brian PERRY, Mark Victor GRUNDY, Ryan SIVYOUR, Andrew ASHTON, Oliver QUINN, Jordan EASTERBROOK and Craig WATTON. Given the seriousness of the allegations and impact on numerous Southampton residents Southampton City Council assumed the lead authority role on behalf of 22 authorities across southern England and instituted 12 criminal prosecutions representing 177 members of the public who's evidence were subjected to their evidence being put before the court. In September 2018 Joseph ASHFORD was convicted at Southampton Crown Court, alongside 7 others, with a ninth person having previously pleaded guilty, of offences arising from the Trading Standards investigation OP ALBACORE
2	By way of background, the companies placed multiple adverts in telephone directories offering emergency drain and plumbing repairs with a 24 hour response and Senior Citizen discounts. Published telephone numbers were routed to offices in Bournemouth and latterly Ringwood. Customers were quoted labour and equipment rates which did not include VAT and were charged per half hour. The effectively hourly rate frequently reached £350/hour with materials added on top.
3	Customers were misled as how the bill was to be calculated, the need for the work to be done, what had been done and very often that money had been taken from customer's accounts without permission. The work done was frequently ineffective, unnecessary or was significantly different from what was originally agreed. Final invoices ranged from £200 to £18,000 and when customers rang to complain they were lied to, told to write to fictitious names or generally "fobbed off".
4	Following a 5 month trial in 2018, sentencing took place in 2019 and ASHFORD and DEAN were convicted of money laundering offences relating to the money they had paid themselves for running the companies. GRUNDY, SIVYOUR, ASHTON, QUINN, EATERBROOK and WATTON were found guilty of fraud offences relating to the work carried out
5	Offences of converting criminal property as identified above are 'lifestyle' offences as defined in the Proceeds Of Crime Act 2002 and in summary, the criminal benefit is subject to potential confiscation proceedings.
6	The Court has previously provided Directions as to how such contested proceedings should be scheduled; this culminates in a hearing in July 2019. Further the Directions provide for an agreed resolution which would be notified to the Court. Such contested proceedings carry considerable cost arising from officer time, legal advice/representation and court hearings

7	The defendant has made proposals to the effect that were he to undertake to the Court to make voluntary payments totalling £616,000 comprising of monthly payments of a minimum of £40,000 the council would then agree to defer confiscation proceedings
8	Such an agreement will be underpinned by the existing restraint order to the value of £720,000 and equally by an agreement with the Court that in the event of breach of the agreement the Council would be able to recommence confiscation proceedings.
9	The agreement provides an immediate and effective end to the lengthy litigation process thus representing considerable savings to the public purse and delivers public confidence in the operation of the confiscation regime. The agreement was negotiated by officers with assistance from legal counsel and as with all negotiations before the courts was time limited. Accordingly the Chief Executive and Director of Legal and Governance acted under delegated powers to secure the best agreement that could be secured. Under the Constitution this requires reporting to Cabinet.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
10	Continue litigation having rejected the proposal. The outcome of such litigation is, by the very nature of such action, both uncertain and time/resource intensive. Any outcome would likely be delayed to July 2019 at the earliest.
DETAIL (Including consultation carried out)	
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
11	Expenditure in 2018/19 on the relevant EN161 account totals £547,106.86. There is an identified income amount of which £331,218.04 is identified as being compensation to victims. The relevant costs were taken to the General Fund as part of the 2018/19 outturn. Of the £616,000 payment, £547,000 will be returned to the General Fund in 2019/20, and the remainder ring fenced for future Trading Standards work. The summary position is that all of the Council's expenditure of these major cases has been recovered.
<u>Property/Other</u>	
12	None
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
13	None.
<u>Other Legal Implications:</u>	
14	The Director Legal and Governance (DLG) has authority within the Council's Constitution at Part 10 Para 8.33(i) 'To investigate, institute or authorise legal proceedings....or to take any other action necessary to protect the legal position of the City Council'. Additionally urgent decisions can also be taken by the Chief Executive or DLG in such circumstances as were before the Council.
RISK MANAGEMENT IMPLICATIONS	

15	None
POLICY FRAMEWORK IMPLICATIONS	
16	Not applicable.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	none
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	None.

Documents In Members' Rooms

1.	None.
----	-------

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
---	-----------

Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	/No
--	------------

Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	
2.	