

**CYNGOR SIR POWYS COUNTY COUNCIL.**

**CABINET EXECUTIVE**

**26<sup>th</sup> July 2016**

<b>REPORT AUTHOR:</b>	<b>County Councillor John T Powell Portfolio Holder for Environment and Sustainability</b>
<b>SUBJECT:</b>	<b>Trading Standards Investigation Costs - Operation Gleam</b>
<b>REPORT FOR:</b>	<b>Decision</b>

**1. Summary**

1.1 A request is made to pay external legal costs incurred in an investigation case (Operation Gleam) pending an order from Crown Court to receive the costs back after a reasonable collection period - expected to be late 2016/2017.

1.2 During the course of the investigation it was recognised that significant costs would be incurred by the authority and agreement was secured to support costs up to £100K. However various legal challenges to the authority by the defendants has resulted in these costs increasing significantly by a further £403,324. The Portfolio Holder and S151 Officer have been kept informed as the case has progressed.

1.3 A three year nationwide investigation by Powys Trading Standards has culminated in guilty pleas for three Manchester based rogue traders on the 14th June 2016 at Caernarvon Crown Court. Offences under Fraud Act and Consumer Protection Regulations have been pursued following the supply of unsafe teeth whitening products (containing 110 times the legal limits of hydrogen peroxide) across the UK. The traders were present at the Royal Welsh Show in 2013 when the products were tested and then seized by Trading Standards staff.

1.4 Powys extended the investigation and demonstrated that the potential criminality involved amounted to over £3 million over a 10 year period. 30 victims came forward to provide statements.

1.5A number of challenges were made on the authority's right to institute legal proceedings and other constitutional matters such as officer delegations, which have been addressed corporately, but this meant sizeable additional legal costs.

1.6 Approximately £3.1 million of assets have been restrained (frozen) in this case and the authority will be pursuing a Proceeds of Crime Act (POCA) action against the individuals. The timetable for this will be set in the September Crown Court case, post sentence, and an application for our costs will be submitted at that time. It is likely that Powys will obtain a share of these assets when the criminal benefit is agreed, but this will take some time. It is anticipated that total Investigation costs for this case amount to approximately £860,000 (including the external legal costs requested in this paper).

1.7 All parties will be sentenced on 16<sup>th</sup> September 2016 at Swansea Crown Court.

## **2. Proposal**

2.1 That a virement for £404,000 is agreed from Reserves to enable the authority to pay the external legal costs, pending the request and order from court for the defendants to pay back all costs associated with this case.

## **3. One Powys Plan**

3.1 The proposal would support the authority's aim to ensure Stronger, Safer and Economically viable communities. Publicity from this high profile, national case will demonstrate the ability of the authority to take action when necessary to protect its citizens from unscrupulous traders.

## **4. Options Considered/Available**

4.1 These costs have been incurred by the authority and are now due to be paid. Unprecedented legal challenges to the authority's structure, constitution and legal right to institute proceedings have been successfully defended – but which have led to significant increased costs in this case. The service is requesting support as it does not have the budget to meet these costs.

## **5. Preferred Choice and Reasons**

5.1 The service receives financial support to enable it to pay the costs incurred in taking this important case.

## **6. Sustainability and Environmental Issues/Equalities/Crime and Disorder, Welsh Language/Other Policies etc**

6.1 There are strong crime and disorder messages in this case for ensuring the protection of Powys residents and visitors to Powys.

## **7. Children and Young People's Impact Statement - Safeguarding and Wellbeing**

N/A

## **8. Local Member(s)**

This proposal applies with equal force across the whole County

## **9. Other Front Line Services**

N/A

**10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

Legal - Legal services have been involved in supporting the case and support the payment of these bills which have been necessary to protect our position and win the case.

Finance – The Finance Business Partner Place notes the contents of the report, it is anticipated that costs will be recovered in full when the case is concluded but this is not certain.

Corporate Property – No issues

HR – no issues

ICT – no issues

Business Services – no issues

**11. Local Service Board/Partnerships/Stakeholders etc**

N/A

**12. Corporate Communications**

No specific issues. Trading Standards have liaised with Communications at key stages in the case and a communications strategy is being drafted.

**13. Statutory Officers**

The Strategic Director Resources (S151 Officer) notes the comments made by finance. Any recovery will be used to replenish reserves.

The Solicitor to the Council ( Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report.

**14. Members’ Interests**

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>1. Approve virement of £404,000 from reserves to enable payment of external legal bills.</b>	<b>The council has supported the prosecution of this case as being in the public interest. Costs incurred will be claimed back via the court</b>
<b>2. That reserves are repaid the</b>	

sum of £404,000 from any monies as a first call on any monies received from the Defendants for costs and POCA.	process.
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Relevant Policy (ies):	N/A		
Within Policy:	Y / N	Within Budget:	N

Relevant Local Member(s):	N/A
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Person(s) To Implement Decision:	Clive Jones
Date By When Decision To Be Implemented:	asap

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**Background Papers used to prepare Report:**  
Operation Gleam report