

Subject:	National Illegal Money Lending Team - Delegation of Powers to Birmingham City Council		
Date of Meeting:	22 September 2011		
Report of:	Strategic Director, Communities		
Lead Member:	Cabinet Member for Communities, Equalities & Public Protection		
Contact Officer:	Name:	John Peerless	Tel: 29-2486
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Key Decision:	No		
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report sets out the proposal to delegate functions to Birmingham City Council to take enforcement action against illegal money lenders in Brighton and Hove. This follows a national team being established in Birmingham, resourced with skilled professionals to specialise in effectively preventing and prosecuting in this field.

2. RECOMMENDATIONS:

- 2.1 That Birmingham City Council be given delegated power to discharge the enforcement of Part III of the Consumer Credit Act 1974 in Brighton & Hove (pursuant to Section 101 of the Local Government Act 1972, Regulation 7 of the Local Authority (Arrangements for Discharge of Functions) (England) Regulations 2000 and Section 13 and 19 of the Local Government Act 2000).
- 2.2 That the "Protocol for Illegal Money Lending Section Investigations" attached at Annex One be approved and that the Head of Planning and Public Protection be authorised to enter into the agreement and to approve any minor technical or typographical alterations if required.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The primary legislation governing the consumer credit industry is the Consumer Credit Act 1974. The Trading Standards Service enforces this in each Local Authority area. The Act is based on a licensing system and all consumer credit and consumer hire businesses operating in the UK (with certain exemptions) must possess an appropriate licence issued by the Office of Fair Trading (OFT).

- 3.2 To operate a consumer credit business without being licensed is a criminal offence and carries a maximum penalty of £5,000 and/or up to two years imprisonment. Licences can be revoked where it can be established that the licensee has acted inappropriately.
- 3.3 Illegal money lending covers a range of activities, from persons that are actually licensed but are acting unlawfully, to the extreme of a person offering cash loans without being licensed at all (Loan Sharks). Loan Shark activity is characterised by deliberate criminal fraud and theft, with extortionate rates of interest on loans that mean borrowers face demands for payment of thousands of pounds more than they borrowed and can often never pay off the loans. Borrowers who fail to pay or refuse to pay are subject to intimidation, theft, forced prostitution and other, extreme physical violence.
- 3.4 In 2005 an Illegal Money Lending Team was established within Birmingham Trading Standards as a pilot project in England, one of only two in Great Britain; the other pilot area being Glasgow – covering Scotland. The success of the pilot led to a roll out of other teams across the country. Although the Trading Standards South East (TSSE) group agreed to align itself with the Birmingham based team rather than introduce their own team.
- 3.5 The team has worked with the East Sussex Credit Union publicising their ‘hotline’ and the support that can be offered to ‘victims’, but as yet no further investigations have been carried out.
- 3.6 On the 29th December 2010 Business Minister Edward Davey announced that £5.2 million in funds was to be made available to continue the national Illegal money lending project for 2011/12 and beyond. He announced a restructure moving the project to a three national team model. Birmingham City Council will continue to host the England team providing a resource to investigate illegal money lending across the country.
- 3.7 Key statistics for the project up to January 2011 are:
- Identified over **1,700** illegal lenders
 - Arrested over **500** illegal money lenders (loan sharks)
 - Over **£37 million** of illegal debts written off (money victims would have paid back to illegal lenders if the Department had not acted)
 - Secured over **182** prosecutions, resulting in prison sentencing totalling over **107** years and one indefinite sentence
 - Helped over **16,000** victims of loan sharks including the most hard to reach individuals
 - Referred over **600** victims to alternate (legal) sources of financial support
- 3.8 The Head of Trading Standards (HOTS) is a founder member of the East Sussex Credit Union. The Credit Union began as a community based organisation in Whitehawk and was established to provide the residents with access to a cheaper and safer source of credit. As a member of the Loan Committee he received first hand information indicating that loan sharks operated in many parts of the city.
- 3.9 Loan sharks generally come from the community in which they carry out their

crime. They use others to hide their activity but also to protect them-selves from detection. It is not surprising therefore that there is limited 'hard evidence' of such activity in Brighton & Hove.

- 3.10 Information from the ILMT indicates that these criminals are also linked to other crimes including drugs, counterfeiting and money laundering. Experience shows that once someone comes forward action needs to be taken promptly, to secure the evidence but more importantly protect the victim.
- 3.11 The Trading Standards Service does not have the relevant expertise of the resources to deal with such activities and wish to take advantage of the resources being offered. This will align us with neighbouring local authorities and the country as a whole.
- 3.12 The ILMT were given delegated powers in August 2008 under urgency provisions' in order to allow them to investigate alleged loan sharking activity as a result of a call to their 'hotline'. This delegation was extended until March 2009 but due to an administration error on the part of the ILMT no request to extend the delegation further was received.
- 3.13 It is crucial that this situation is now resolved as the ILMT intend to increase their activities across the country and receiving delegated powers from Brighton & Hove will mean that they can respond promptly and appropriately to any information received from this area.

4. CONSULTATION

- 4.1 The list of organisations consulted is included in Annex 2. There is general support for the recommendations of this report, although none of the respondents have any specific information regarding 'loan shark' activity in the area.
- 4.2 Money Advice & Community Support (MACS) initially expressed concern about duplication of activity, however after further discussion now realise that those concerns were unfounded.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 All the major costs associated with the recommendations will be funded by the Treasury. Incidental costs in providing a work base for officers operating in Brighton & Hove will be met from within the existing Trading Standards Service revenue budget.

Finance Officer Consulted:

Karen Brookshaw

Date: 29/07/11

Legal Implications:

- 5.2 By virtue of Section 161 of the Consumer Credit Act 1974, it is the duty of each Local Authority to enforce the provisions of the Act within their local authority boundary. This is an executive function and therefore, in order to proceed with the proposals in this report, it is necessary for Cabinet to formally delegate this function to Birmingham City Council under Section 13 and 19 of the Local Government Act 2000 and the Local

Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000. Birmingham City Council is also required to formally accept the delegation.

- 5.3 Any prosecutions will be undertaken by Birmingham City Council with no liability for costs to Brighton & Hove City Council. The delegation of functions is proposed to last until 31st March 2015. The protocol enables the Council to withdraw from the delegation arrangements providing that it is reasonable to do so.

Lawyer Consulted:

Elizabeth Culbert

Date: 28/07/11

Equalities Implications:

- 5.4 It is often the poorer and more vulnerable members of society who become victims of illegal moneylenders and find it difficult to access appropriate support and help.
- 5.5 Any actions arising from this particular work will be fed into the financial inclusion work currently underway with the Credit Union and advice providers across the City. This work will be subject to a detailed EIA process to ensure that those who suffer most from the disproportionate and cumulative impacts of financial exclusion benefit significantly.

Sustainability Implications:

- 5.6 There are no sustainability implications.

Crime & Disorder Implications:

- 5.7 Illegal moneylenders invariably target low-income households and the most vulnerable members of society. This can mean that their activities have disproportionate implications for the more deprived areas and action taken against them therefore supports the policy priorities associated with crime and disorder and protecting the more vulnerable members of the community.
- 5.8 Illegal money lending has a serious detrimental effect on both individuals and the community. Tackling the root causes and providing legitimate alternative sources of credit will contribute to reducing stress and pressures on many individuals and communities.
- 5.9 Marginalising rogue traders creates an environment which supports and encourages legitimate credit providers and reduces the fear of crime.

Risk & Opportunity Management Implications:

- 5.10 The risk to adopting this partnership approach by providing delegated powers is assessed as low. The approach removes any risk to future funding of this work as the officers will be employed by another local authority.

Corporate / Citywide Implications:

- 5.11 Proper delegation of these powers will help to protect the public from loan sharks and other illegal money lending activity.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 There are no other viable options as the funding is provided on the basis of expanding the Birmingham team.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 This proposal, if agreed, will add to the County Council's resources and will enable our Trading Standards Service to have access to a team of highly trained experts from the IMLT.

7.2 The recommendations will support performance of the Authority's duty in relation to enforcement of the provisions of the Consumer Credit Act 1974.

SUPPORTING DOCUMENTATION

Appendices:

1. Protocol between Brighton & Hove City Council and Birmingham City Council
2. List of Consultees and their responses

Documents in Members' Rooms

None

Background Documents

None