

Agenda item:

Title of meeting: Environment & Community Safety Decision Meeting

Date of meeting: 8th October 2013

Subject: Delegation of Illegal Money Lending Enforcement

Report by: Alan Cufley Head of Corporate Assets, Business & Standards

Wards affected: All Wards

Key decision: No

Full Council decision: No

1. Purpose of report

To inform the Cabinet / Cabinet Member for Environment & Community Safety of the continuing work of the Illegal Money Lending Section (IMLS) of Birmingham City Council and to approve their continued authorisation to operate in Portsmouth until 31st March 2015

2. Recommendations

- 2.1 Cabinet approves the delegation of the function of the enforcement of Part III of the Consumer Credit Act 1974 to be carried out in the City of Portsmouth by Birmingham City Council and delegate the power of prosecution to Birmingham City Council for any matters associated with or discovered during an investigation by the illegal money lending team.
- 2.2 The 'Protocol for Illegal Money Lending team investigations' attached, at Appendix 1, be agreed and authority be delegated to the Head of Corporate Assets, Business & Standards to enter into this agreement on behalf of Portsmouth City Council

3. Background

- 3.1 The primary legislation governing the consumer credit industry is the Consumer Credit Act 1974. Trading Standards enforces this legislation 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). The OFT must be satisfied that an applicant for a Consumer Credit Licence is a fit and proper person before issuing that person with a licence to trade.
- 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 and warnings and conditions can be added to the licence where necessary.

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

- 3.3 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 remit of the team is to investigate illegal money lending activity, establish if a problem exists and, if so, bring to justice those persons carrying on this activity. The team is made up of highly experienced investigators with a broad range of backgrounds and investigative skills.

- 3.4 The scheme, initially working across the Midlands, has already been extended to cover the North West, East of England, South East and Yorkshire and Humber areas.

- 3.5 Research, funded by the Department of Business Innovation and Skills (BIS) and using information gathered by the Birmingham pilot project, has been published which identifies the extent of this type of activity as well as the reasons that people use illegal money lenders. Funding for the project is provided from the Financial Inclusion Fund administered by the Treasury and managed by BIS.

The Treasury and BIS announced that due to the success of the Birmingham team that funding will continue and can be used to roll out to other authorities.

- 3.6 On the 29th December 2010 Business Minister Edward Davey announced that £5.2 million in funds will be available to continue the national Illegal money lending project for 2012/14 through the trading standards service.

- 3.7 In addition, the Minister also announced that BIS intended to restructure the project by moving the project to a three national team model. The Minister indicated that BIS were looking to maintain front line services whilst providing a value for money project.

The England team will be hosted by Birmingham City Council and will continue to

provide a resource to investigate illegal money lending across England.

- 3.8 Birmingham was chosen to lead the new England team due to the efficiencies associated with the expansion. This was favoured to creating a brand new team that would attract high development and set up costs. Centralising national services was key.

The team based in Birmingham will continue to operate the “parachute in and out model”, with a local presence through regional officers, this being the recommended option by the recent research commissioned through Policis.

- 3.9 The benefit that this team can bring to Portsmouth is significant. Portsmouth Trading Standards Service, like most local authorities, is not able to provide the level of specialist resource to provide this enforcement function and the support that is required i.e. witness protection. This is an excellent example of how sharing resources on specific issues can bring benefits otherwise unavailable in providing support to vulnerable consumers and tackling rogues.

- 3.10 Key statistics for the project up to December 2012:

- Identified nearly **3,000** illegal lenders
- Arrested over **600** illegal money lenders (loan sharks)
- Written off over **£40 million** of illegal debts (money victims would have paid back to illegal lenders if the Department had not acted)
- Secured over **218** prosecutions, resulting in prison sentencing totalling over **140** years and one indefinite helped over **19,000** victims of loan sharks including the most hard to reach individuals
- Referred over **1000** victims to alternate (legal) sources of financial support.

- 3.11 In addition to exceeding the expectations of the Government the project has also achieved significant added value, including partnership working with the Police, the Department of Work and Pensions, Post Office Counter Fraud Unit, H M Revenue and Customs to facilitate a coordinated approach to tackling crime and disorder.

- 3.11 In Portsmouth the 'objectives of the project' are supported with community events. In August 2012 Portsmouth Trading Standards officers, local volunteers and the Awareness, Intelligence, Support and Education Officer from the IMLS took part in a 'bite back fortnight' to raise awareness and encourage victims to come forward. Similar activities have taken place in 2013

- 3.12 A loan shark was prosecuted in Portsmouth in 2009 as a result of direct intelligence received, which was well publicised locally.

4.0 Objectives of the Project

Objective 1 - To obtain a clear understanding of the scale and impact of illegal money lending as well as learning lessons on the best way to enforce.

- 4.1 The evidence so far indicates that illegal money lenders are widespread and prevalent. They operate in areas that have a high proportion of rented accommodation and target the most vulnerable members of society. High rise flats are common premises targeted by loan sharks as legitimate lenders do not lend to people residing in this type of accommodation due to the health and safety risks for their collectors.
- 4.2 Evidence shows illegal moneylenders vary from those who lend £10 over a few days and demand £12 on repayment, to those who provide substantial loans to those looking to set up businesses. Interest rates range from 100% up to 117,000% APR in some instances.
- 4.3 Information gathered so far suggests that illegal money lending is being operated across all sectors of the community. The majority of people using moneylenders are in receipt of income support or benefits and are introduced through word of mouth. However evidence also suggests that money lenders operate within the wider community and the pilot has identified illegal money lending within the business community. In many of the investigations it has been established that the moneylenders resort to intimidation and violence in order to secure payment. Other common traits include: adding indiscriminate charges, targeting single mothers and introducing payment through sexual favours.
- 4.4 Moneylenders often use victims of money lending to assist them with maintaining their criminal lifestyle and anonymity, for example illegal money lenders' vehicles are often registered at a clients' address.
- 4.5 There is also anecdotal evidence which suggests that illegal moneylenders have an impact on the wider community in which they operate, with victims resorting to petty crime to enable them to meet payments. Reducing the activities of illegal moneylenders or removing them altogether may therefore help to reduce levels of other criminal activity within a community.
- 4.6 With regard to enforcement activity the investigation of illegal money lending has proven to be very resource intensive. Target individuals need to be observed and monitored to determine their activity, to identify them and if possible establish their address. A significant proportion of targets are also what are termed "life style criminals", which means that evidence of other illegal activity can surface during the course of an investigation. This may not only involve other agencies but can also extend the life of an investigation, thereby adding to the pressure on resources.
- 4.7 **Objective 2 - To create a climate where victims can come forward – confident that prosecutions will be undertaken, and convictions obtained, without fear of reprisals.**

4.8 Effective branding and publicity of the pilot project has meant extensive promotion of the aims of the project and work of the team, within both the local and wider community. Evidence suggests that this has been achieved because it can be evidenced that victims are willing to contact the hotlines, and to provide further evidence to help achieve prosecutions. This will be established in North Yorkshire.

4.9 The team has used injunctions, backed by the power of arrest under the Anti-Social Behaviour Act 2003, to remove lenders from their area of operation. Injunctions are reinforced with an agreement from the local police to flag the matter on their system and respond immediately if they receive a call from one of the victims.

4.10 Objective 3 – To change the perception amongst those lending that illegal money lending is rarely prosecuted.

4.11 A proactive media campaign is on-going in those areas that have successfully targeted criminals. Engaging the media promotes the work of the team and raises public awareness.

4.12 Objective 4 – To develop ways of replacing the removed lenders with more support for their victims.

4.13 The Illegal Money Lending Team will help victims of illegal moneylenders with practical help and support through and in conjunction with the services of local Debt Advice Teams and the National Debtline. It has been noted that victims often need more than simple money advice and so face-to-face advice is considered the most helpful way forward and is the route normally adopted.

4.14 Links are also established with credit unions and their associations and where practicable these agencies are also called upon to provide help and advice. The Illegal Money Lending Team offers money management to all victims of moneylenders who contact them for advice and assistance. Partnership working in this area is recognised as being essential in this area of service provision. This will be the key role of the IMLS Intelligence and Support officer for the South East.'

5.0 Reasons for recommendations

5.1 This will give Portsmouth the capability to tackle Illegal money lending at minimal cost to the authority.

5.2 By virtue of s161 of the Consumer Credit Act 1974, it is the duty of each 'local weights and measures authority' to enforce the provisions of the Act within their local authority boundary. This is an executive function for the purposes of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and therefore it is necessary for Cabinet as the Executive to formally delegate this function to Birmingham City Council under Section

13 and 19 of the LGA 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.

6.0 Equality impact assessment (EIA)

An preliminary EIA has been undertaken for this initiative and has concluded that a full assessment is not required

7.0 Legal Implications

7.1 The aim of the protocol is to place the control, conduct and investigation process related to a prosecution under the jurisdiction and within the remit of Birmingham City Council. Such legal implications as do exist are identified and managed within the protocol annexed to the report

8.0 Finance Comments

8.1 The proposal would continue to place the control and conduct of any investigation under the jurisdiction and responsibility of Birmingham City Council, therefore there are no financial implications for Portsmouth City Council.

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Signed by:
Alan Cufley, Head of Corporate Assets, Business and Standards

Appendices:
Appendix 1 - Protocol for Illegal Money Lending Section Investigations

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
none	

The recommendation(s) set out above were approved/ approved as amended/ deferred/
rejected by on

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Signed by:
Cllr Gerald Vernon-Jackson, Leader of the City Council