

**PROTOCOL FOR ENGLAND ILLEGAL MONEY LENDING INVESTIGATIONS**

**To:** Highways and Community Infrastructure Committee

**Meeting Date:** 17<sup>th</sup> March 2015

**From:** Executive Director: Economy, Transport & Environment

**Electoral division(s):** All

**Forward Plan ref:** N/A                      **Key decision:** No

**Purpose:** To consider renewing the protocol with Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within the Cambridgeshire County Council area until 31st March 2018.

**Recommendation:** The Committee is asked to:

- i) Approve the delegation of the function of the enforcement of Financial Services and Markets Act 2000, as delegated through the Financial Services Act 2012 and Part III of the Consumer Credit Act 1974 within Cambridgeshire to Birmingham City Council until 31<sup>st</sup> March 2018.
- ii) Agree the attached Protocol for Illegal Money Lending Team Investigations and delegate authority to the Head of Supporting Businesses and Communities to enter into this agreement on behalf of Cambridgeshire County Council and approve minor alterations if required.

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## **1. BACKGROUND**

- 1.1 The primary legislation governing the consumer credit industry has been updated from the Consumer Credit Act 1974 to the Financial Services Act 2012 and is regulated through the Financial Services and Markets Act 2000.
- 1.2 The Supporting Businesses and Communities Service is responsible for enforcing relevant provisions of this legislation in the County. The legislation means that businesses and individuals engaging in consumer credit activity must be authorised by the Financial Conduct Authority (FCA). The FCA must be satisfied that an applicant who wishes to be authorised is a fit and proper person.
- 1.3 To operate a consumer credit business without authorisation is a criminal offence and carries a maximum penalty of £5,000 and/or up to two years imprisonment. Authorisation can be revoked where it can be established that the authorised business has acted inappropriately. Warnings and conditions, fines and suspension can be issued where necessary.
- 1.4 Illegal money lending generally refers to the business of offering cash loans without being legally authorised. This type of activity is more commonly known as Loansharking. Loanshark 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.
- 1.5 In 2010, it was estimated that over 310,000 households were using illegal lenders and that £750m is currently paid to illegal lenders each year by vulnerable communities and individuals.
- 1.6 The England Illegal Money Lending Team (IMLT) was established in 2008 and is based within Birmingham City Council Trading Standards Service. 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 out this activity.
- 1.7 Research, funded by the Department of Business Innovation and Skills (BIS) identifies the extent of this type of activity as well as the reasons that people use illegal money lenders. Funding for the Illegal Money Lending Team is provided from the Financial Inclusion Fund administered by the Treasury and managed by BIS.

## **2. ILLEGAL MONEY LENDING PROTOCOL**

- 2.1 By virtue of Section 161 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. It is, therefore, necessary for the Highways and Community Infrastructure Committee to formally delegate this function to Birmingham City Council under Section 13 to 19 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Birmingham City Council is also required to formally accept the delegation.

- 2.2 This function has previously been delegated to Birmingham City Council but is due to end in March 2015. It is proposed that a new delegation is made until 31 March 2018 and an application will be made to extend this further, should the team continue to be funded after this time.
- 2.3 In order to ensure clarity in respect of the operation of these arrangements it is proposed that the Committee approves the protocol (Appendix A), which sets out the processes and practices to enable Birmingham City Council officers to undertake investigations and legal procedures.
- 2.4 Any prosecutions will be undertaken by Birmingham City Council with no liability for costs to Cambridgeshire County Council. Birmingham City Council will also conduct investigations for recovery of criminal assets, with recovered assets being returned to the Treasury. This delegation does not prevent Cambridgeshire County Council undertaking any prosecution or financial investigation where the Head of Service believes that this is in the best interests of Cambridgeshire County Council to do so.
- 2.5 The benefit that the Illegal Money Lending Team can bring to Cambridgeshire County Council is significant. The Supporting Businesses and Communities Service, like most local authorities, is not able to provide the level of specialist expertise and technical skills required to provide this function. The Illegal Money Lending Team provides their services free of charge and they have a team of highly experienced investigators with a broad range of backgrounds and investigative skills. This is an excellent example of how sharing resources on specific issues can bring benefits to support vulnerable consumers and tackle rogues.

### **3. FINANCIAL CAPABILITY**

- 3.1 Illegal Money Lending has a detrimental effect on both individuals and the community. The Supporting Businesses and Communities Service will continue to undertake work with partners across the County to help build financial capability and tackle the root causes of loansharking.
- 3.2 Work in this area also supports Cambridgeshire County Council's Child Poverty Strategy. One of the aims of the Strategy is to help improve the way that partners work together to help to prevent financial crises, for example, by supporting access to affordable credit, and by

extending help with budget planning and money management. Within the Child Poverty Strategy, there are pledges for the County Council to:

- Maintain an oversight of areas at risk of loan shark activity and work with partners to undertake enforcement and preventative activity in areas of high risk
- Work with partners to look at alternative safe savings and loan schemes for the local community where loan shark enforcement is taking place.

- 3.3 The Supporting Businesses and Communities Service works closely with District and City partners to help communities establish alternative sources of savings and lending schemes. Rainbow Saver Anglia Credit Union has been supported by Fenland DC, Cambridge City Council and the County Council to help continually increase its membership within the County. The Union now has access points in Wisbech, March, Sawston, Histon and Cambridge.

### **3. ALIGNMENT WITH CORPORATE PRIORITIES**

Officers believe the approach outlined in the policy is supportive of the objectives outlined in the Business Plan and Corporate Priorities.

- 3.1 **Developing the local economy for the benefit of all.**  
Undertaking work to combat illegal money lenders helps to create an environment which supports and encourages legitimate credit providers and reduces the fear of crime.
- 3.2 **Helping people live health and independent lives**  
Illegal money lending activity 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.
- 3.3 **Supporting and protecting vulnerable people**  
Illegal moneylenders invariably target low-income households and the most vulnerable members of society. Loan shark activity is, therefore, likely to have disproportionate implications for the more deprived areas of the County.

### **4. SIGNIFICANT IMPLICATIONS**

- 4.1 **Resource Implications**  
Cambridgeshire, like most local authorities, does not have the level of specialist resource available to effectively deal with illegal money lending operations. The Illegal Money Lending Team can bring significant support to the County to tackle this issue at no cost to the County Council.
- 4.2 **Statutory, Risk and Legal Implication**  
The statutory and legal requirements in relation to Illegal Money Lending are set out in the report above.

**4.3 Equality and Diversity Implications**

There are no significant implications for this priority

**4.4 Engagement and Consultation Implications**

There are no significant implications for this priority

**4.5 Localism and Local Member Involvement**

There are no significant implications for this priority

**4.6 Public Health Implications**

There are no significant implications for this priority

Source Documents	Location
Illegal Money Lending Protocol 2012 - 2015	Room 320 Shire Hall Castle Hill Cambridge CB3 0AP