

DEPARTMENT FOR BUSINESS ENTERPRISE & REGULATORY REFORM
ILLEGAL MONEY LENDING PROJECT

PROTOCOL FOR ILLEGAL MONEY LENDING TEAM INVESTIGATIONS

Interpretation

For the purposes of this Protocol –

“**BCC**” means Birmingham City Council

“**HCP**” means Halton Borough Council Consumer Protection

“**IMLT**” means the Illegal Money Lending Team

“**Delegated Power**” means the delegation of the enforcement of Part III of the Consumer Credit Act 1974 to BCC by Halton Borough Council in pursuance of section 101(5) of the Local Government Act 1972, Regulation 11 of the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2000, section 20 of the Local Government Act 2000 and all other enabling powers. This delegation relates to the joint exercise of functions and does not affect the delegation of the enforcement of the Consumer Credit Act already furnished to officers of Halton Borough Council.

“**Commencement Date**” means the date the Delegated Power is granted

“**Term**” means from the date of signing of this protocol to 31st March 2009

“**Birmingham Trading Standards**” means Regulatory Services of BCC

“**Halton Contact Officer (HCO)**” means the relevant person appointed by the Divisional Manager of HCP to liaise with the IMLT team manager on matters relating to and in connection with the Illegal Money Lending Project

“**Appropriate Contact Officer**” means The Director of Regulatory Services, Head of Trading Standards and Licensing or the Illegal Money Lending Manager of Birmingham Trading Standards and the Divisional Manager of HCP or any person authorised by them

1. Application

1.1 This Protocol applies to the DBERR/HM Treasury funded 'Illegal Money Lending Project' and covers the following issues:-

- The conduct of investigations and associated working practices for the IMLT officers when conducting investigations or operating in Halton.
- The mechanisms whereby HCP is updated on the progress of the project and any significant issue relating thereto.
- The exchange of intelligence and information between the IMLT and HCP
- The institution of legal proceedings.

2. Protocol

2.1 The purpose of this protocol is to facilitate the delegation of powers to officers employed within BCC's IMLT to enforce the provisions of the Consumer Credit Act 1974 within the area of Halton. The protocol encourages the exchange of information and a working partnership approach between BCC and HCP in relation to the Consumer Credit Act 1974.

2.2 This Protocol will come into force on the Commencement Date and terminates at the end of the Term.

2.3 Notwithstanding the terms and conditions of this Protocol, this Protocol does not prejudice the right of HCP to withdraw the Delegated Power at any time during the Term. However HCP undertakes not to withdraw the Delegated Power unless it considers there is good reason to do so. The Delegated Power is not to be unreasonably withdrawn by HCP.

3. The IMLT

3.1 It is recognised that officers in the IMLT will need authority to initiate and/or undertake investigations and/or the prosecution of potential offences falling within the scope of the 'Illegal Money Lending Project' where such potential offences fall entirely outside of the BCC boundaries. The Delegated Power is deemed to provide such authority.

3.2 The IMLT will comprise of a team manager and up to 11 staff directly employed by BCC. The IMLT team manager will be responsible for the day-to-day operation and supervision of the IMLT.

3.3 The IMLT team manager will report directly to the Director of Regulatory Services.

- 3.4 The Illegal Money Lending Team Manager, BCC will quarterly from the Commencement Date, provide a progress report to the Divisional Manager of HCP giving details of investigations, (unless there is a significant risk that any such disclosure may jeopardise an investigation, such a decision is within the discretion of the Director of Regulatory Services BCC) prosecutions being pursued or concluded and developments concerning or affecting the Illegal Money Lending Project in Halton.
- 3.5 It is recognised that after Delegated Power is granted to BCC, all decisions concerning the pursuance of relevant investigations, decisions to prosecute and the laying of charges and/or information on such relevant matters within Halton, shall be taken by BCC and in accordance with the relevant Code for Crown Prosecutors and BCC's Enforcement Policy. However, BCC will consult with the Halton Contact Officer before any charges and/or informations are preferred unless it is not practicable to do so.

4 Working Arrangements in the Halton Borough Council Area

- 4.1 HCP will designate and appoint a Halton Contact Officer (HCO).
- 4.2 The IMLT team manager will on the first working day of each month and at any time the IMLT team manager considers necessary and prudent, or at the request of the HCO, brief the HCO on any intelligence gathered, any progress made on investigations and/or prosecutions pending or otherwise, relating to or affecting Halton and/or its residents.
- 4.3 Further to Clause 4.2 above, all reasonable steps will be taken by the IMLT team manager to keep the HCO updated on the progress of investigations and enquiries being carried out in Halton and any changes made or introduced by the Department for BERR concerning the 'Illegal Money Lending Project'. It is incumbent on the IMLT team manager to maintain regular dialogue/communication with the HCO.
- 4.4 The IMLT will have regular contact with Cheshire Police and other Government agencies. The IMLT team manager will consult the HCO to identify any local arrangements, investigations and protocols before any investigation is commenced in pursuance of the 'Illegal Money Lending Project'. Wherever possible, the IMLT team manager will actively involve the HCO and seek to develop close links between those agencies and HCP.
- 4.5 The IMLT team manager will as soon as reasonably practicably inform the HCO the outcome of any concluded prosecution proceedings conducted within Halton.
- 4.6 BCC will consult with HCP and the Halton Communications and Marketing Unit in good time before issuing any press release concerning any prosecution pursued by BCC pursuant to this Protocol.
- 4.7 Any contact with local government bodies, other police forces, credit unions or similar organisations that may be locally funded or may involve local sensitivities will be agreed with the HCO in advance. Upon being notified of an intention to

contact such a body, HCP may arrange for one of their own officers to accompany the relevant officer of the IMLT on any visit, or undertake the work themselves, and pass any results back to the IMLT.

- 4.8 Where the IMLT team manager and the Divisional Manager of HCP agree that an officer or officers of HCP will be actively involved in an investigation, that officer will remain an employee of HCP but for the purpose of that investigation, will come under the control of the IMLT team manager. Such agreement will be subject to the IMLT team manager being satisfied that the officer's or officers' participation will not compromise any investigation or endanger any member of the IMLT, supporting staff or witnesses, that the officer has the appropriate training and experience to undertake the task; and upon any other terms that the IMLT team manager and the Divisional Manager of HCP consider necessary and/or appropriate.
- 4.9 Unless there is prior agreement with the IMLT team manager for assistance in an investigation, which is accompanied by an official purchase order from BCC, no reimbursement will be made for time spent on activities supporting the 'Illegal Money Lending Project' or expenditure incurred by any HCP officer.
- 4.10 The exercise by BCC of these arrangements shall be at no cost to HCP and furthermore BCC undertakes to indemnify HCP against any claim made against HCP arising out of the exercise by BCC of powers granted to them under these arrangements.
- 4.11 BCC shall have an Appropriate Contact Officer.
- 4.12 In the absence of the IMLT team manager, the role, duties, and responsibilities of the IMLT team manager shall be discharged and carried out by the Appropriate Contact Officer.

5. Referral of Information/Intelligence to the Project Team

- 5.1 The IMLT It is recognised that the IMLT will rely on receiving information about Illegal Money Lender activities.
- 5.2 HCP will endeavour to provide as much relevant information and intelligence as reasonably and practicably possible to the IMLT concerning any investigation being carried out within Halton, having regard to any statutory limitations/restrictions, the time likely to be expended, resources available and costs likely to be incurred by HCP in providing the same.
- 5.3 Information and intelligence will be provided by the HCO to the IMLT team manager or a person designated by him/her.
- 5.4 BCC IMLT will not, as a matter of routine, investigate individual complaints received concerning alleged Illegal Money Lender activities. However, such complaints may be used by the IMLT as a source of intelligence.
- 5.5 BCC, IMLT and HCP agree to process personal data only in accordance with the requirements of the Data Protection Act 1998 and to disclose information in accordance with the requirements of the Enterprise Act 2002.

6 Conduct and Control of Investigations

- 6.1 The conduct and control of all investigations undertaken and prosecutions by the IMLT in Halton will be the responsibility of BCC. Investigations will be undertaken in line with the BCC's published Enforcement Policy and subject to the policies and procedures approved and adopted by Birmingham Trading Standards.
- 6.2 BCC will be responsible for all aspects of the investigations and responsibilities under the Criminal Procedure and Investigations Act 1996, Regulation of Investigatory Powers Act 2000, the Data Protection Act 1998, the Freedom of Information Act 2000 and the Enterprise Act 2002.
- 6.3 BCC will be solely responsible for the Health and Safety of IMLT officers and any other officer or person within the direct management of the IMLT providing support and assistance in any investigation undertaken by the IMLT.
- 6.4 Where breaches of Part III of the Consumer Credit Act 1974 are identified, action will be taken in accordance with the enforcement policy and procedures adopted by Birmingham Trading Standards.
- 6.5 When the Team Manager, IMLT BCC, recommends a prosecution under Part III of the Consumer Credit Act 1974, if required, HCP will be provided with a copy of the relevant prosecution file, which will consist of a detailed case summary, schedule of issues, aggravating and mitigating factors, reasons justifying prosecution and any other material fact that HCP ought reasonably to be aware of. HCP will be invited to communicate any comments it considers appropriate and necessary concerning the intended prosecution to the Senior Assistant Director, Regulatory Services, the informant for BCC. Such comments will be given due attention and consideration by the informant for BCC.

7. Responsibilities and Actions of the Authorities

- 7.1 BCC shall be liable for the actions and competence of the persons employed within the IMLT and shall ensure that the IMLT shall comply with all legislative requirements and take all reasonable steps to ensure any actions taken are lawful and within the spirit of the protocol.
- 7.2 HCP shall be liable for the actions and competence of persons within its employ and shall take all reasonable steps to ensure the competence of those persons in carrying out their functions and that they comply with legislative requirements and the spirit of this protocol.
- 7.3 Information / intelligence provided between BCC and HCP shall be used for the purpose intended and shall not be divulged to third parties unless to do so would be lawful and in pursuant of an investigation / enquiry subject to this protocol.

7.4 BCC and HCP endorse a joined up working approach to the enforcement of the Consumer Credit Act 1974. The partners will attempt to promote consistency in enforcement. However, this protocol does not attempt to restrict the powers of authorised officers of the IMLT or HCP from discharging their duties, as appropriate.

Commencement date:

Signed

Paul McWade
Operational Director
Health & Partnerships Department
Halton Borough Council