

REPORT TO: Executive Board Sub Committee

DATE: 13 December 2007

REPORTING OFFICER: Strategic Director, Health and Community

SUBJECT: Enforcement of Part III of the Consumer Credit Act - Legal Authorisations

WARDS: Boroughwide

1.0 PURPOSE OF THE REPORT

- 1.1 To seek approval for a scheme of delegation to authorise Birmingham City Council and officers of the Illegal Money Lending Team (IMLT) to investigate and institute proceedings against illegal money lenders operating within the Halton Borough Council area.

2.0 RECOMMENDATION: That

- (1) the Board agrees to the delegation of the enforcement of Part III of the Consumer Credit Act 1974 in Halton, to Birmingham City Council (pursuant to Section 101(5) of the Local Government Act 1972, Regulation 11 of the Local Authority (Arrangements for Discharge of Functions) (England) Regulations 2000, Section 20 of the Local Government Act 2000 and all other enabling powers) up to 31 March 2009. 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; and**
- (2) the attached “Protocol for Illegal Money Lending Team Investigations” be agreed and authority be delegated to the Operational Director, Health & Partnerships, in consultation with the Executive Board Member for Community, to enter into the agreement on behalf of Halton Borough Council and approve minor alterations if required.**

3.0 SUPPORTING INFORMATION

General Background

- 3.1 The primary legislation governing the consumer credit industry is the Consumer Credit Act 1974 and this is enforced, in each Local Authority area, by the Trading Standards (Consumer Protection) Service. The Act is based upon 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. Further, the OFT can revoke licences where it can be established that the licensee has acted inappropriately. The OFT can issue warnings and add conditions to the licence where necessary.
- 3.3 Illegal money lending covers a range of activities, from persons that are actually licensed but are acting unlawfully (for example by canvassing off trade premises) to the extreme of a person offering cash loans without being licensed at all (Loan Sharks).
- 3.4 The Birmingham Illegal Money Lending Team was established as a pilot project, one of only two in Great Britain; the other pilot area being Glasgow. The remit of the team is to investigate illegal money lending activity and establish if a problem exists and, if so, bring to justice those persons carrying on this activity.
- 3.5 The pilot scheme in England hosted by Birmingham Trading Standards initially covered a geographical area including the West Midlands, Warwickshire, Shropshire, Herefordshire, Worcestershire, Stoke, Staffordshire and Telford. The team initially consisted of seven investigators with a broad range of backgrounds and investigative skills and a team manager.
- 3.6 Research, funded by the Department for Business, Enterprise and Regulatory Reform (DBERR) 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.
- 3.7 In December 2006 the Treasury Minister Ed Balls visited the Birmingham based project and announced an extension to the funding for a further year, up to March 2008. The funding is provided from the Financial Inclusion Fund administered by the Treasury and managed by the DBERR. This continuation clearly identified the Government's support for the work undertaken by the Birmingham based team and a commitment to what is considered a successful project.
- 3.8 More recently, in September 2007, the Business Secretary, John Hutton, announced that the localised pilots would be extended to every region of the country, including the North West, up to 31 March 2009. However, given the timescale of the bidding process Trading Standards North West approached the Birmingham team to request

that they submitted a bid to undertake the work in the North West. This bid proved to be successful.

Key statistics for the project up to 1 February 2007

- 3.9 Since it began in 2005 the project can claim:
- Population covered – 5,267,337 incorporating 14 Local authorities
 - Illegal debt written off – over £2 million
 - Victims helped – over 1,500
 - Cash seized to date - £44,170
 - Proceeds of crime proceedings ongoing for over £1 million
 - 12 guns taken off the street
 - many offenders found to be falsely claiming benefits
 - counterfeit goods to the value of over £100,000 recovered
 - prison sentences totalling over 26 years so far handed down.
- 3.10 In addition to exceeding the expectations of the Government, the project has also achieved significant added value, including expert support to other Trading Standards authorities in tackling illegal moneylenders in their area. Developing partnership working with the Police, the Department of Work and Pensions, H M Revenue and Customs as well as other key partners has facilitated a coordinated approach to tackling crime.

Performance against the Objectives of the Pilot 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”:

- 3.11 The evidence so far indicates that illegal moneylenders are widespread and prevalent. They operate in areas that have a high proportion of rented accommodation and target the most vulnerable members of society. Often these are areas where legitimate lenders do not lend due to safety risks for their collectors.
- 3.12 Evidence suggests 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.
- 3.13 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 moneylenders 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.

- 3.14 Moneylenders often use victims of money lending to assist them with maintaining their criminal lifestyle and anonymity, for example illegal moneylenders' vehicles are often registered at a clients' address.
- 3.15 There is also anecdotal evidence suggesting 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.
- 3.16 With regard to enforcement activity the investigation of illegal money lending has proven to be very resource intensive. Targets 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.

Objective 2 - "To create a climate where victims can come forward – confident that prosecutions will be undertaken, and convictions obtained, without fear of reprisals":

- 3.17 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.
- 3.18 The Birmingham Team has continued to use 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.

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

- 3.19 A proactive media campaign is ongoing. Engaging television, radio and newspapers locally, regionally and nationally is helping to promote the work of the team and raising public awareness.

Objective 4 – “To develop ways of replacing the removed lenders with more support for their victims”:

- 3.20 The Birmingham Illegal Money Lending Team helps victims of illegal moneylenders with practical help and support through and in conjunction with the services of local Debt Advice Teams and the National Debt line. 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.
- 3.21 Links have also been established with credit unions and their associations and where practicable these agencies are also called upon to provide help and advice. The Birmingham 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 a must in this area of service provision.

Authorisations

- 3.22 In order to expand the scheme into Halton the existing Birmingham team requires proper authorisation of the officers to carry out the investigations and for all the associated legal processes and costs thereof to be delegated to Birmingham City Council. The draft protocol attached as Appendix 1 to this report contains all the required conditions and consents to enable Birmingham City Council officers to undertake investigations and legal procedures.

4.0 POLICY IMPLICATIONS

- 4.1 This proposal, if agreed, will supplement Halton’s Consumer Protection resources (at no extra cost to Halton Borough Council) and will enable the Consumer Protection officers to have access to a team of highly trained experts from the IMLT.

5.0 FINANCIAL IMPLICATIONS

- 5.1 HM Treasury funds the IMLT/Project. There will be no cost or resource implications for Halton Borough Council in delegating this authority to Birmingham City Council. Halton’s Consumer Protection Service does not currently have sufficient resources to dedicate a team solely to the investigation and detection of illegal or unlicensed moneylenders. The Birmingham based project team, funded by the Treasury, is able to provide additional resources and protection for the benefit of Halton’s citizens at no cost to Halton Borough Council.

6.0 OTHER IMPLICATIONS

- 6.1 Colleagues in Legal Services have been consulted and advise that a formal delegation of powers under the relevant local government legislation is the correct procedure to be used. They have also reviewed the proposed protocol and are satisfied that it is fit for purpose.
- 6.2 Halton's Consumer Protection Staff may, by agreement, be involved in some of the IMLT operational work whilst they are operating in the Halton area. However this delegation to the IMLT (and the proposed protocol) does not commit Halton Consumer Protection to provide any specific resource.
- 6.3 This area of law enforcement requires specialist expertise, techniques and facilities that the Consumer Protection Service would not otherwise have access to. Members of the IMLT include officers with high-level training and expertise in surveillance techniques as well as security operations. The team includes, amongst others, ex police officers and security services personnel.

7.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

7.1 Children and Young People in Halton

None directly but indirectly 7.3 and 7.4 below highlight implications that can impact on children and young people.

7.2 Employment, Learning and Skills in Halton

Marginalising rogue traders creates an environment that supports and encourages legitimate credit providers.

7.3 A Healthy Halton

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.

7.4 A Safer Halton

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.

7.5 Halton's Urban Renewal

None.

8.0 RISK ANALYSIS

8.1 Given the performance of the Birmingham Illegal Money Lending Team to date and the fact that the partnership arrangement will be documented via the attached protocol, the risks associated with this proposal are considered to be minimal.

9.0 EQUALITY AND DIVERSITY ISSUES

9.1 The recommendations have a positive impact on equality, as the result of pursuing them will be to increase the protection of vulnerable members of the community. The report is neutral in terms of diversity.

10.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

10.1 There are no background papers within the meaning of the Act.