
Meeting: Executive
Date: 8 December 2009
Subject: **Authorisation for Birmingham City Council to undertake investigations in Central Bedfordshire**

Report of: **Cllr David McVicar, Portfolio Holder for Safer and Stronger Communities**

Summary: The report seeks approval for Central Bedfordshire Council to authorise Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within the Central Bedfordshire Council area as part of an investigation they are undertaking. A number of other local authorities have agreed this request as a result of which investigations have ensued and subsequent action taken.

Advising Officer: Gary Alderson, Director of Sustainable Communities
Contact Officer: Sandra Moore, Area Manager Public Protection South
Public/Exempt: Public
Wards Affected: All
Function of: Executive
Key Decision: Yes
Reason for urgency/
exemption from call-in
(if appropriate): Not applicable

CORPORATE IMPLICATIONS

Council Priorities:

The work will contribute to creating strong and safer communities by stopping criminal activity and protecting vulnerable members of our community. Illegal lenders or "Loan sharks" are known to target those who find it difficult to obtain money through the normal channels who once owing money will often be paying it back at a huge rate of interest without the normal protection associated with a legitimate loan. The work will also help to reduce other criminal activity such as assault and theft associated with illegal money lending. In addition marginalising rogue traders creates an environment which supports and encourages legitimate credit providers and helps reduce the fear of crime.

Financial:

The Illegal Money Lending Team is funded by HM Treasury. The Birmingham based project team is able to provide additional expert resources and protection for the benefit of Central Bedfordshire citizens at no cost to the Council. Minor incidental costs in providing a work base for officers operating in Central Bedfordshire Council will be contained within the Public Protection Service budget.

Legal:

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 and therefore it is necessary for the Executive 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.

Any prosecutions will be undertaken by Birmingham City Council with no liability for costs to Central Bedfordshire Council.

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.

Risk Management:

The corporate risk management system has been used to assess the level of risk. 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.

All RIPA authorisations will be granted by Birmingham City Council under the arrangements in the protocol.

In addition all investigations which may ensue with regard to the Proceeds of Crime Act and the Money Laundering Act will be conducted by Birmingham City Council. However the Council shall have access to the in-house Financial Investigation Unit as appropriate and where agreed with the Illegal Money Lending Team.

Staffing (including Trades Unions):

None

Equalities/Human Rights:

Evidence shows that it is often the poorer and more vulnerable members of society who become victims of illegal moneylenders and who find it difficult to access appropriate support and help. The approach proposed should prevent potential exploitation of vulnerable people.

Community Safety:

Illegal moneylenders invariably target low-income households and the most vulnerable members of society. This can mean that their activities have a disproportionate impact and implications for more deprived areas. Action taken against Illegal money lenders supports the Councils and Community Safety Partnership priorities to reduce crime, protecting the more vulnerable members of the community and supporting victims of crime.

Sustainability:

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.

Summary of Overview and Scrutiny Comments:

This report has not been subject to consideration by Overview and Scrutiny.

RECOMMENDATION(S):

- 1. that the Executive agree the delegation of the function of the enforcement of Part III of the Consumer Credit Act 1974 be carried out in Central Bedfordshire Council 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. that the Executive agree the “Protocol for Illegal Money Lending Team Investigations” as attached as Appendix 1 and that authority be delegated to the Assistant Director Community Safety & Public Protection to enter into the agreement on behalf of the Council and approve minor alterations if required.**

Reason for

Recommendation(s):

Where illegal lending is found to be taking place in Central Bedfordshire this can be investigated and the perpetrators brought to justice.

The nature of the crimes mean that criminal activity is difficult to identify and the illegal lending is often associated with more serious crime. This is not an area of law enforcement that Public Protection are used to dealing with and the use of the Illegal Money Lending Team will provide the knowledge and expertise required. There will be opportunities for officers to work with them on investigations so that these skills can be transferred Using the IMLT is seen as the most cost effective way of carrying out this work and the best way of ensuring a successful

outcome for the residents of Central Bedfordshire
This authorisation is additionally recommended as we have been advised illegal money lending activity has already been identified as currently taking place in Central Bedfordshire.

Background

1. The primary legislation governing the consumer credit industry is the Consumer Credit Act 1974. Trading Standards Services enforce this in each local authority area. In Central Bedfordshire, Trading Standards forms part of the Community Safety and Public Protection division within the Sustainable Communities Directorate.
2. The Consumer Credit 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. The operation of a consumer credit business without a licence is a criminal offence and carries a maximum penalty of £5,000 and/or up to two years imprisonment. Warnings and conditions can be added to the licence where necessary and licences can be revoked where it is established that the licensee has acted inappropriately.
4. Illegal money lending covers a range of activities, from persons who 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 often leaving them in a position where they never pay off the loans. Borrowers who fail to pay or refuse to pay as a result, are often subject to intimidation, theft, forced prostitution and other extreme physical violence.
5. In response to a report on illegal money lending in the UK by the Department of Business Enterprise Regulation and Reform (BERR) an Illegal Money Lending Team was established within Birmingham Trading Standards service as a pilot project to cover England. It was 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.
6. Building on the success of the pilots the project has now been rolled out throughout England, Scotland and Wales. The Department (formally BERR now the Department for Business Innovation and Skills (BIS)) is committed to funding an illegal money lending enforcement team in every region of Great Britain until March 2011.

7. There will also be financial inclusion work as part of the Project, access to Financial Inclusion Officers in the region who will help the victims of illegal lending. They will support victims to break the cycle of dependency on illegal loans by referring them to appropriate money advice, so that they understand the high costs of illegal loans and the suitability of more affordable credit. Where possible, victims who still have a need to borrow will be referred to credit unions and other third sector lenders who can help them access an affordable loan appropriate to their needs and circumstances.

8. The benefit that this team can bring to Central Bedfordshire Council is significant, as our Community Safety and Public Protection Service, like most other local authorities, do not have the level of specialist resource to provide this function. 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 rogue traders. Members of the IMLT include officers with high-level training and expertise in surveillance techniques as well as security operations and it includes, amongst others, ex police officers and security services personnel.

Conclusion and Next Steps

9. In supporting the recommendations the Executive will enable the investigations in this area to continue and based on evidence gathered, appropriate action to be taken to address Illegal money lending.

The recommendations in the report support performance of the Council's duty in relation to enforcement of the provisions of the Consumer Credit Act 1974.

Appendices:

Appendix A – Loan sharks protocol

Appendix B - Document providing some further information

Background Papers: (open to public inspection)

None