
Meeting of the Executive Member for Neighbourhood Services and Advisory Panel

19th January 2009

Report of the Director of Neighbourhood Services

Illegal Money Lending Team Authorisation

Summary

1. The purpose of this report is to inform members of the work of Birmingham City Council's specialist 'Illegal Money Lending Team' in tackling illegal lending and other associated crimes, and to seek member approval to authorise the team to investigate the activities of illegal money lenders and bring legal proceedings against them in the City of York.

Background

2. The primary legislation governing the consumer credit industry is the Consumer Credit Act 1974. The Trading Standards Service enforces this 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. 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. 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.

4. 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.
5. The scheme, initially working across the Midlands, has already been extended to cover the Yorkshire and Humber area (with the exception of York).
6. Research, funded by the Department of Business Enterprise and Regulatory Reform (BERR) 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 the BERR. The Treasury and BERR announced that due to the success of the Birmingham team that funding will continue and can be used to roll out to other authorities in the Yorkshire and Humber region.
7. The benefit that this team can bring to the City of York is significant. The City of York Council's Trading Standards, like most local authorities, is not able to provide the level of specialist resource to provide this function within its existing capacity. 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.

Key Statistics

8. Key statistics for the project up to 1 October 2008:
 - Over 250 targets nationally, overall
 - In the Yorkshire Region one matter already concluded, other matters under investigation
 - Over 36 years prison sentences so far
 - Over 5000 victims helped
 - 12 guns taken off the street
 - Proceedings instituted against over 70 defendants so far
 - £7,500,000 debt wiped out
 - Two Financial Inclusion Partnership Officers to operate in the Region
9. 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, H M Revenue and Customs to facilitate a coordinated approach to tackling crime and disorder.

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.

10. The evidence so far indicates that illegal moneylenders are widespread and prevalent, although the City of York Council Trading Standards Service, like other trading standards services, receive very few complaints about this type of activity from the victims (there have been no complaints to the service in 08-09, and none in 07-08 either). Illegal Money Lenders operate in areas that have a high proportion of rented accommodation and target the most vulnerable members of society.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.

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

16. 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. Hotlines linking residents to the Illegal Money Lending team will be established in the City of York.
17. 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.

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

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

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

19. 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 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.
20. 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 'Financial Inclusions Partnership Officer'

Delegation

21. In order to expand the scheme into the City of York, Birmingham City Council requires formal delegation of functions to carry out the investigations etc under the Act and to prosecute matters in the area.

22. It is proposed that the delegation will continue until 31st March 2011 with a view to extending the arrangement if successful.
23. In order to ensure clarity in respect of the operation of these arrangements, the draft protocol in Annex 1 sets out the processes and practices to enable Birmingham City Council and its officer to undertake investigations and legal procedures.
24. This delegation does not prevent City of York Council Trading Standards Service from undertaking the function and other activities under the Consumer Credit Act.

Consultation

25. There has been no consultation associated with this report.

Options

26. Members agree that the City of York Council should delegate authority to the specialist officers of Birmingham City Council's Illegal Money Lending Team to enable them to investigate offences and commence proceedings under the Consumer Credit Act 1974.
27. Members decide not to delegate power to the Illegal Money Lending team, leaving the officers in the trading standards team to deal with these matters.

Analysis

28. Option 1 means that the City of York Council will have specialist resources at no extra cost to services to tackle this very difficult area of work.
29. Option 2 means that the City of York Council will not have the specialist resources to help tackle illegal money lending.

Corporate Priorities

30. The trading standards work on tackling illegal money lending links to the following corporate priorities.

“Reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York”.

“Improve the health and lifestyles of the people who live in York, in particular among groups whose levels of health are the poorest”.

Implications

- **Financial:**

31. There are no financial implications as a result of this proposal. All major costs will be funded by the Treasury. Incidental costs in providing a work base for officers of the Illegal Money Lending Team operating in will be contained within the existing environmental Health & Trading Standards budget.

- **Human Resources (HR):**

32. There are no HR implications associated with this report.

- **Equalities**

33. There are no equalities implications associated with this report

- **Legal:**

34. 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 Members to formally delegate this function to Birmingham City Council under Section 13(7) 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.
35. Any prosecutions will be undertaken by Birmingham City Council with no liability for costs to City of York Council.

- **Crime and Disorder**

36. 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.

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.

37. Marginalising rogue traders creates an environment, which supports and encourages legitimate credit providers and reduces the fear of crime.

- **Information Technology (IT)**

38. There are no IT implications associated with this report.

- **Property**

39. There are no property implications associated with this report.

- **Other**

40. There are no other implications to consider.

- **Risk Management**

41. There are no risk management implications to consider with this report.

Recommendations

42. That Members approve Option 1, and agree that the discharge of its function of the enforcement of Part III of the Consumer Credit Act 1974 also be carried out in City of York by Birmingham City Council (pursuant to Section 101 of the Local Government Act 1972, Regulation 7 of the Local Authority (Arrangements for Discharge of Functions) (England) Regulations 2000 and Section 13 (7) of the Local Government Act 2000).

43. That the attached "Protocol for Illegal Money Lending Team Investigations" be agreed and authority be delegated to the head of Environmental Health and Trading Standards to enter into the agreement on behalf of City of York Council and approve minor alterations if required.

Contact Details

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Report Approved **Date** 06.01.2009

Specialist Officer Implications: Legal Services – Glen McCusker

Wards Affected:

All

Background Papers:

None

Annexes

Annex 1 – Protocol for Illegal Money Lending Team Investigations