



## Notice of meeting of

### Decision Session - Cabinet Member for Crime and Community Safety

**To:** Councillor Fraser (Cabinet Member)

**Date:** Tuesday, 5 July 2011

**Time:** 4.30 pm

**Venue:** The Guildhall, York

## AGENDA

### Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item on this agenda, notice must be given to Democracy Support Group by:

**10:00 am on Monday 4 July 2011**, if an item is called in *before* a decision is taken, *or*

**4:00 pm on Thursday 7 July 2011**, if an item is called in *after* a decision has been taken.

Items called in will be considered by the Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00pm on Friday 1 July 2011**.

#### 1. **Declarations of Interest**

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

## **2. Public Participation - Decision Session**

At this point in the meeting, members of the public who have registered their wish to speak at the meeting can do so. The deadline for registering is **5:00 pm on Monday 4 July 2011**.

Members of the public may register to speak on -:

- an item on the agenda
- an issue within the Cabinet Member's remit
- an item that has been published on the Information Log since the last session. Information reports are listed at the end of the agenda.

Please note that no items have been published on the Information Log since the last Decision Session.

## **3. The Scope for the Review of Community Based Roles (Pages 3 - 8)**

The purpose of this report is to define the scope for the review of community based roles within the Council. The report also aims to set out the approach, which will be adopted, to carry out the review and describes the desired outcomes following implementation.

## **4. Illegal Money Lending Team - Authorisations (Pages 9 - 22)**

This report seeks approval for City of York Council to authorise Birmingham City Council to investigate and institute proceedings against illegal moneylenders operating within the City of York Council area.

## **5. Public Protection Legal Actions (Pages 23 - 28)**

The purpose of this report is to enable the Cabinet Member for Community Safety to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by Environmental Health, Trading Standards and Licensing Services in the Communities and Neighbourhoods Directorate for the period 1 January 2011 – 31 March 2011 and approve the continuation of the current enforcement policy.

## **6. Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972

### Democracy Officer:

Name: Jill Pickering

Contact Details:

- Telephone – (01904) 552061
- Email – [jill.pickering@york.gov.uk](mailto:jill.pickering@york.gov.uk)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting

- Registering to speak
- Written Representations
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above

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- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
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### Further information about what's being discussed at this meeting

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### **Holding the Cabinet to Account**

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business from a published Cabinet (or Cabinet Member Decision Session) agenda. The Cabinet will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Cabinet meeting in the following week, where a final decision on the 'called-in' business will be made.

### **Scrutiny Committees**

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

### **Who Gets Agenda and Reports for our Meetings?**

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## **Decision Session - Cabinet Member for Crime and Community Safety**

5th July 2011

Report of the Director of Communities and Neighbourhoods

### **The Scope for the Review of Community Based Roles**

#### **Summary**

1. The purpose of this report is to define the scope for the review of community based roles within the council. These roles are defined as roles which require community liaison, monitoring or investigation of community based issues and the enforcement of legislation.
2. The report also aims to set out the approach which will be adopted to carry out the review and describes the desired outcomes following implementation.

#### **Background**

3. During the 11/12 Service Reviews carried out by CANS staff, it was apparent that there were a number of overlapping activities carried out by community and enforcement officers within one directorate. As a result a saving of £67k was attributed to the review by improving the deployment of resources.
4. In conjunction with this, the Neighbourhood Management Unit is currently being restructured, and will provide a function capable of leading York's response to the Localism Bill. This will be done by co-ordinating the activity with partners, communities and volunteers and by developing and delivering against community contracts, following the successes of the Area Based Working pilot
5. This has resulted in the need to review all roles within the organisation that monitor and enforce legislation within the community to maximise efficiencies and support the new NMU model.

#### **Consultation**

6. Consultation for this report has been carried out with Head of Environmental Enforcement and Parking Services, the Head of Neighbourhood Management Unit and the Head of Environmental Health and Trading Standards to pull together an initial scope for the review. Further consultation will be carried out during the review with other relevant

service areas.

## **Proposed Outcomes and Principles**

7. The review will be based on a number of principles and proposed desired outcomes that will shape the structure of the resulting organisation.
8. The community based and enforcement roles will dovetail with the new proposed model for the Neighbourhood Management Unit to deliver the needs of the local community through partner engagement and by working closely with residents, volunteers and the 3<sup>rd</sup> sector. In doing so communities will be involved and empowered to determine and deliver local solutions to respond to their changing needs, which in turn will redefine the street based services to be delivered by the Council.
9. Communities will be safe and respectful and in turn treated fairly with street based staff acting as the eyes and ears of the community, whilst enhancing the environment and providing guidance.
10. Community based service delivery will be more joined up and simplified to bring consistency and removal inefficient activities and duplication by means of smarter working across partnerships.
11. Enforcement of legislation across the services will be unified to deliver a consistent approach, with the necessary skills appropriately placed to carry out the tasks.
12. Staff will be provided with clear responsibilities and objectives to enable a more flexible workforce which will work effectively cross organisational boundaries.

## **Scope**

13. There are a number of roles across the organisation that support the community in many different ways; delivering a service, inspecting the environment, enhancing the environment, providing guidance, co-ordinating activity, investigating issues for the community and enforcing legislation.
14. Following an initial appraisal of roles that fulfil a level of presence within the community, within the CANS directorate are described in Annex A and are under consideration for this review. Additional roles may be identified as the review progresses.

## **Approach**

15. To identify potential overlaps and duplication across the community based roles and their respective departments; we must first investigate the primary responsibilities as defined in the job descriptions and the ability for them to be combined and generic roles to be defined. Within



this any statutory requirements will be established to ensure that these functions are not over looked.

16. This will be carried out in parallel with a review of actual functions, their relationships with partners, volunteers, the community and other council staff, along with the need to deliver street based services in a different way to meet the changing needs of the community.
17. During the review an analysis of best practise in local authorities and agencies, where success has been achieved in this area, will be carried out to learn and develop tried and tested models that will meet the needs of the City of York.
18. Once the review has been carried out models to support the new organisational requirements will be brought to a future Cabinet Member decision session prior to implementation the HR Transformation process.

### **Corporate Priorities**

19. The review of the community based and enforcement staff will aim to deliver a function that will contribute to the Council priority to Build Strong Communities by developing smarter ways of working and providing a safe environment in which to live.

### **Implications**

- (a) **Financial** – The review aims to achieve financial budget savings of £67k.
- (b) **Human Resources (HR)** - There will be a need for Human Resource support to deliver the review.
- (c) **Equalities** - As part of the review a full equalities impact assessment will be carried out.
- (d) **Legal** - Throughout the review the legal implications of the roles will be assessed to ensure compliance is maintained.
- (e) **Crime and Disorder** - Throughout the review the crime and disorder implications of the roles will be assessed to ensure compliance is maintained.
- (f) **Information Technology (IT)** – As a result of the review there may be implications regarding the implementation of smarter ways of working. However this review will have no ICT implications.
- (g) **Property** – There are no property implications arising from this report.

(h) **Other** - None**Risk Management**

20. In compliance with the councils' risk management strategy, there are no risks associated with the information in this report.

**Recommendations**

21. The Cabinet Member is asked to agree the scope of the review and approve the approach proposed in the report.

Reason: To deliver a new organisational structure to deliver street based and enforcement functions.

**Contact Details**

<b>Author:</b>	<b>Chief Officer Responsible for the report:</b>		
Sarah Bygott Business Change and Performance Manager Business Change and Performance Tel No.555130	Sally Burns Director of Communities and Neighbourhoods		
	<b>Report Approved</b>	<input checked="" type="checkbox"/>	<b>Date</b> 20 June 2011
<b>Specialist Implications Officer(s)</b> <i>None.</i>			
<b>Wards Affected:</b> <i>List wards or tick box to indicate all</i>			<b>All</b> <input type="checkbox"/> <i>tick</i>
<b>For further information please contact the author of the report</b>			

**Background Papers:**

**All relevant background papers must be listed here.**

None

**Annexes**

Annex A – Community Based and Enforcement roles under consideration

## **Annex A – Community Based and Enforcement roles under consideration**

- a. Street Environment Services – The teams within this area consists of Environmental Enforcement and Street Environment Officers whose role it is to deliver improvements to the physical environment of York, whilst monitoring and enforcing compliance with legislation regarding environmental crime. The team consists of 7 roles carrying out this function.
- b. Parking Services – This team is currently under review and consists of a team of Civil Enforcement Officers and Team Leaders whose role it is to enforce the decriminalised parking regulations in accordance with the Traffic Management Act of 2004 and the York Traffic Management Orders and issue penalty charge notices (PCN) for any non-moving traffic offences, in order to aid the traffic flow within York and surrounding areas. Currently the team consists of 23 staff providing a monitoring and enforcement function.
- c. Housing Services – This service consists of Estate Managers and Estate Workers whose roles it is to manage tenant engagement and monitor and enforce the tenancy terms and conditions in conjunction with the Tenancy Enforcement team and partners. Within the Housing Standards and Adaptations teams there are officers who seek to regulate the private sector and officers who visit homeowners to help maintain and improve their financial assistance and help customers to maintain independence through a range of adaptations. Within the teams there are 45.5 staff providing a monitoring and enforcement function.
- d. Environmental Health & Trading Standards – within these teams are;
- e. Animal Health officers who enforce laws regarding health and welfare of non domestic animals. The officers check compliance at farms and markets as well as animals in transit. Where breaches are identified they take action ranging from verbal advice to prosecution depending on the circumstances. Officers also licence certain animal movements to help ensure traceability ‘from farm to fork’. They issue licences to pet shops, riding establishments, boarding kennels and catteries.
- f. The Dog Warden service is part of the Animal Health team. Officers collect stray dogs and enforce legislation requiring dangerous dogs to be kept under control. The officers also deal with dog fouling complaints, issuing fixed penalty notices to offenders as an alternative to prosecution.
- g. Trading Standards officers enforce over 100 pieces of legislation aimed at ensuring businesses trade fairly and the products they supply are safe. Officers provide advice to businesses on technical requirements, and take those who flout the law to court (criminal

prosecution or civil injunction). There are accredited financial investigators within the team who can obtain orders to confiscate all assets derived from the proceeds of crime.

- h. Food Safety and Standards officers monitor and enforce food safety and standards in over 1800 food premises, food retailers, restaurants, pubs, takeaways, caterers, retailers, manufacturers.
- i. Health and Safety Officers monitor and enforce health and safety legislation in over 4900 business premises.
- j. The Licensing Enforcement Officer provides specialist enforcement support to the general licensing and taxi licensing teams to ensure that statutory and quality standards are maintained by the licensed sector.
- k. Within Environmental Health and Trading Standards there are 4.2 FTE (Animal Health)+ 9.3 FTE (Trading Standards) + 5 FTE (Food Safety) + 2 FTE (Food Standards) + 2.3 FTE (Health & Safety Enforcement)<sup>1</sup> (Licensing) providing a monitoring and enforcement function.
- l. Environmental Protection Unit – within this team there are Environmental Protection Officers who provide advice, regulate and enforce on all aspects of environmental protection and related anti social behaviour (e.g. noise enforcement), to customers, businesses and citizens of York. The team consists of 8 roles carrying out this function.
- m. Highways Inspectors who complete both the road surface assessment inspections and deploy teams to carry out repairs.
- n. Within CANS there are other teams, such as Neighbourhood Pride operatives that provide a street based service, which will also be considered during the review to ensure that the principles of the review are applied across the directorate.
- o. Other teams outside of the directorate will also need to be considered in this review to ensure that there is a consistent view.



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## **Decision Session - Cabinet Member for Crime and Community Safety**

5 July 2011

Report of the Assistant Director – Housing and Public Protection

### **Illegal Money Lending Team - Authorisations**

#### **Summary**

1. This report seeks approval for City of York Council to authorise Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within the City of York Council area.

#### **Background**

2. The primary legislation regulating 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 North West, East of England, South East and Yorkshire and the Humber areas.
6. Research, funded by the Department of Business Innovation and Skills (BIS) 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 BIS. The Treasury and BIS announced that due to the success of the Birmingham team that funding will continue and can be used to roll out to other authorities.
7. On the 29<sup>th</sup> December 2010 Business Minister Edward Davey announced that £5.2 million would be available to continue the national Illegal money lending project for 2011/12 through the trading standards service.
8. In addition, the minister also announced that BIS intended to restructure the project by moving the project to a three national team model. The Minister indicated that BIS were looking to maintain front line services whilst providing a value for money project. The England team is hosted by Birmingham City Council and continues to provide a resource to investigate illegal money lending across England.
9. Birmingham was chosen to lead the new England team due to the efficiencies associated with the expansion. This was favoured to creating a brand new team that would attract high development and set up costs. Centralising national services was key. The team based in Birmingham will continue to operate the “parachute in and out model”, with a local presence through regional officers, this being the recommended option by the recent research commissioned through Policis.
10. The benefit that this team can bring to City of York is significant. City of York trading standards, like most local authorities, is not able to provide 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 rogues.

## Key Statistics

11. Key national statistics for the project up to January 2011:
  - Identified over 1,700 illegal lenders
  - Arrested over 500 illegal money lenders (loan sharks)
  - Written off over £37 million of illegal debts (money victims would have paid back to illegal lenders if the Department had not acted)
  - Secured over 182 prosecutions, resulting in prison sentencing totalling over 107 years and identified over 16,000 victims of loan sharks including the most hard to reach individuals
  - Referred over 600 victims to alternate (legal) sources of financial support
12. 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, Post Office Counter Fraud Unit, HM Revenue and Customs to facilitate a coordinated approach to tackling crime and disorder.

## Objectives of the Project

13. **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.**
14. 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.
15. 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.
16. 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.

17. 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.
18. 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.
19. 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.
20. **Objective 2 - To create a climate where victims can come forward – confident that prosecutions will be undertaken, and convictions obtained, without fear of reprisals.**
21. 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.
22. 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.
23. **Objective 3 – To change the perception amongst those lending that illegal money lending is rarely prosecuted.**
24. 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.
25. **Objective 4 – To develop ways of replacing the removed lenders with more support for their victims.**
26. 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 Debtline. 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.

27. 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.

### **Delegation**

28. In order to expand the scheme into City of York, Birmingham City Council requires formal delegation of functions to carry out the investigations etc under the Act and to prosecute any matters in the area.
29. It is proposed that the delegation will continue until 31<sup>st</sup> March 2015.
30. In order to ensure clarity in respect of the operation of these arrangements, the attached draft protocol sets out the processes and practices to enable Birmingham City Council and its officer to undertake investigations and legal procedures.
31. This delegation does not prevent City of York Council trading standards from undertaking the function.

### **Consultation**

32. There has been no consultation in relation to this report.

### **Options**

33. Option 1: The council should authorise the enforcement of Part III of the Consumer Credit Act 1974 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 and 19 of the Local Government Act 2000).
34. That the attached "Protocol for Illegal Money Lending Team Investigations" be agreed and authority be delegated to the Head of Trading Standards and Environmental Health to enter into the agreement on behalf of the City of York Council and approve minor alterations if required.
35. Option 2: There are no other viable options as the funding is provided on the basis of expanding the Birmingham team, enforcement would be carried out by officers of the City of York trading standards.

## Analysis

36. This proposal, if agreed, will add to City of York Council's resources and will enable trading standards to have access to a team of highly trained experts from the IMLT.
37. This area of law enforcement requires specialist resource, expertise, techniques and facilities which trading standards 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.
38. The recommendations will support performance of the Authority's duty in relation to enforcement of the provisions of the Consumer Credit Act 1974.

## Corporate Priorities

39. The trading standards work on tackling illegal money lending links to the following priorities from the Corporate Strategy.
40. Healthy City - We will improve wellbeing and support the independence of York's residents.
41. We want York to be a safer city with low crime rates and high opinions of the city's safety record.

## Implications

42. **Financial:** There are no financial implications for City of York Council as a result of this proposal. All major costs will be funded by the Treasury. Incidental costs in providing a work base for officers operating in City of York will be contained within the trading standards budget.
43. **Human Resources (HR):** There are no HR implications associated with this report.
44. **Equalities:** It is often the poorer and more vulnerable members of society who become victims of illegal moneylenders and find it difficult to access appropriate support and help.
45. **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

member 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.

46. Any prosecutions will be undertaken by Birmingham City Council with no liability for costs to City of York Council.
47. **Crime and Disorder:** 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.
48. 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.
49. Marginalising rogue traders creates an environment which supports and encourages legitimate credit providers and reduces the fear of crime.
50. **Information Technology (IT):** There are no IT implications associated with this report.
51. **Property:** There are no property implications associated with this report.
52. **Other:** There are no other implications to consider.

## **Risk Management**

53. The risk to adopting this partnership approach by providing delegated powers is low. The approach removes any risk to future funding of this work as the officers will be employed by another local authority.

## **Recommendations**

54. That the Cabinet Member agrees with option 1 set out in paragraphs 33-34.

Reason: To allow the Birmingham City Council Money Lending Team to undertake lawful investigations in the City of York Council area.

**Contact Details**

**Author:**

*Colin Rumford  
Head of Environmental Health &  
Trading Standards  
1502*

**Chief Officer Responsible for the report:**

*Steve Waddington  
Assistant Director (Housing and Public  
Protection)*

**Report Approved**

**Date**

20/05/2011

**Wards Affected:** *List wards or tick box to indicate all*

**All**

**For further information please contact the author of the report**

**Background Papers:**

**Annexes**

***All annexes to the report must be listed here.***

Annex 1 – Protocol for Illegal Money Lending Investigations .

DEPARTMENT FOR BUSINESS INNOVATION AND SKILLS (BIS)  
ILLEGAL MONEY LENDING PROJECT

PROTOCOL FOR ILLEGAL MONEY LENDING SECTION INVESTIGATIONS

Interpretation

For the purposes of this Protocol –

“**BCC**” means Birmingham City Council

“**CYC**” means **City of York** Council Trading Standards

“**IMLS**” means the Illegal Money Lending Section

“**Delegated Power**” means the discharge of the function of the Enforcement of Part III of the Consumer Credit Act 1974 granted to BCC by CYC in pursuance of section 101 and 222 of the Local Government Act 1972, Regulation 7 of the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2000, sections 13 to 19 of the Local Government Act 2000 and any other legislation enabling the discharge

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

“**Term**” means from the date of signing of this protocol to 31<sup>st</sup> March 2015

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

“**City of York Council Contact Officer (CYCCO)**” means the relevant person appointed by the Head of (Trading Standards) of CYC to liaise with the Head of Illegal Money Lending Section 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 or the Head of Illegal Money Lending of Birmingham Regulatory Services or any person nominated by the Council or authorised by them

## **1. Application**

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

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

## **2. Protocol**

2.1 The purpose of this protocol is to facilitate the delegation of powers to BCC and officers employed within BCC's IMLS to enforce the provisions of the Consumer Credit Act 1974 within the area of City of York Borough Council. The protocol encourages the exchange of information and a working partnership approach between BCC and CYC 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 CYC to withdraw the Delegated Power at any time during the Term. However CYC 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 CYC.

## **3. The IMLS**

3.1 It is recognised that officers in the IMLS 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. This protocol and also the Delegated Power is deemed to provide such authority to BCC and its officers regarding all matters.

3.2 The IMLS will comprise of a team manager and up to 45 staff directly employed by BCC. The Head of Illegal Money Lending Section will be responsible for the day-to-day operation and supervision of the IMLS.

3.3 The Head of Illegal Money Lending Section will report directly to the Director of Regulatory Services or nominated officer as appropriate.

- 3.4 The Head of the Illegal Money Lending Section BCC will, when required, provide quarterly progress reports, from the Commencement Date, to the Head of (Trading Standards) of CYC 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 or Head of Trading Standards BCC) prosecutions being pursued or concluded and developments concerning or affecting the Illegal Money Lending Project in City of York.
- 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 City of York Council, shall be taken by BCC and in accordance with the relevant Code for Crown Prosecutors and BCC's Enforcement Policy.

#### **4. Working Arrangements in the City of York Council Area**

- 4.1 BCC will designate and appoint a City of York Contact Officer (CYCCO).
- 4.2 The Head of Illegal Money Lending Section will at any time the Head of Illegal Money Lending Section considers necessary and prudent, or at the request of the CYCCO, brief the CYCCO on any intelligence gathered, any progress made on investigations a City of York and/or prosecutions pending or otherwise, relating to or affecting and/or its residents.
- 4.3 Further to Clause 4.2 above, all reasonable steps will be taken by the Head of Illegal Money Lending Section to keep the CYCCO updated on the progress of investigations and enquiries being carried out in City of York and any changes made or introduced by BIS concerning the 'Illegal Money Lending Project'. It is incumbent on the Head of Illegal Money Lending Section to maintain regular dialogue/communication with the CYCCO.
- 4.4 The IMLS will have regular contact with the Police and other Government agencies. The Head of Illegal Money Lending Section will consult the CYCCO to identify any local arrangements, investigations and protocols before any investigation is commenced in pursuance of the 'Illegal Money Lending Project'. Wherever possible, the Head of Illegal Money Lending Section will actively involve the CYCCO and seek to develop close links between those agencies and BCC.
- 4.5 The Head of Illegal Money Lending Section will as soon as reasonably practicably inform the CYCCO of the outcome of any concluded prosecution proceedings conducted within City of York.
- 4.6 BCC, where possible, will consult with CYC 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 CYCCO in advance. Upon being notified of an intention to contact such a body, City of York Trading Standards may arrange for one of their own officers to accompany the relevant officer of the IMLS on any visit.
- 4.8 Where the Head of Illegal Money Lending Section and the Head of Trading Standards of City of York Council agree that an officer or officers of City of York Trading Standards & Regulatory Services will be actively involved in an investigation, that officer will remain an employee of CYC but for the purpose of that investigation, will come under the control of the IMLS team manager. Such agreement will be subject to the Head of Illegal Money Lending Section 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 Head of Illegal Money Lending Section and the Head of Environmental Health & Trading Standards of City of York Council consider necessary and/or appropriate.
- 4.9 Unless there is prior agreement with the Head of Illegal Money Lending Section 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 CYC officer.
- 4.10 The exercise by BCC of these arrangements shall be at no cost to CYC
- 4.11 BCC shall have an Appropriate Contact Officer.
- 4.12 In the absence of the IMLS Head of Service, the role, duties, and responsibilities of the Head of Illegal Money Lending Section shall be discharged and carried out by the other Appropriate Contact Officers as nominated.

## **5. Referral of Information/Intelligence to the Project Team**

- 5.1 It is recognised that the IMLS will rely on receiving information about Illegal Money Lender activities.
- 5.2 CYC will endeavour to provide as much relevant information and intelligence as reasonably and practicably possible to the IMLS concerning any investigation being carried out within City of York having regard to any statutory limitations/restrictions, the time likely to be expended, resources available and costs likely to be incurred by CYC in providing the same.
- 5.3 Information and intelligence will be provided by the CYCCO to the Head of Illegal Money Lending Section or a person designated by him/her.



- 5.4 BCC IMLS 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 IMLS as a source of intelligence.
- 5.5 BCC, IMLS and CYC agree to process personal data only in accordance with the requirements of the Data Protection Act 1998 and to disclose information only 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 IMLS in City of York 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 IMLS officers and any other officer or person within the direct management of the IMLS 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 Head of Service, IMLS BCC, recommends a prosecution under Part III of the Consumer Credit Act 1974, if required, CYC 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 CYC ought reasonably to be aware of. CYC will be invited to communicate any comments it considers appropriate and necessary concerning the intended prosecution to the Director of 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 IMLS and shall ensure that the IMLS 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 CYC 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 CYC 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 CYC 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 IMLS or BCC from discharging their duties, as appropriate.

Commencement date: 1 July 2011

Signed

City of York Council

Signed

Jacqui Kennedy  
Director of Regulatory Services  
Birmingham City Council.



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## **Decision Session - Cabinet Member for Crime and Community Safety**

**5 July 2011**

Report of the Assistant Director – Housing and Public Protection

### **Public Protection Legal Actions**

#### **Summary**

1. The purpose of this report is to enable the Cabinet Member for Community Safety to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by Environmental Health, Trading Standards, and Licensing Services in the Communities and Neighbourhoods Directorate for the period 1<sup>st</sup> January 2011 – 31<sup>st</sup> March 2011 and approve the continuation of the current enforcement policy.

#### **Background**

2. The Executive Member for Environment and Sustainability approved an enforcement policy for Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services in March 2008.
3. This report details the results of prosecutions taken in the period 1<sup>st</sup> January 2011 – 31<sup>st</sup> March 2011 by Environmental Health, Trading Standards, and Licensing Services. In accordance with the policy each case is considered on its merits before legal proceedings are instituted.
4. Annex A summarises the prosecutions completed, fixed penalty notices and simple cautions that have been issued. A simple caution is a Home Office approved procedure which is an alternative to prosecution. It involves a written acceptance that an offence has been committed and may be drawn to the attention of a court if any subsequent offence is committed within two years of issue.

#### **Consultation**

5. Not applicable.

## Options

6. Not applicable as the Cabinet Member is being asked to note the content of the report.

## Analysis

7. Not applicable.

## Corporate Objectives

8. Two corporate priorities are “To reduce the actual and perceived impact of violent, aggressive and nuisance behaviour of people in York” and “To improve the health and lifestyles of the people who live in York”.

## Implications

9. **Financial:** There are no financial implications associated with this report.
10. **Human Resources:** There are no Human Resources implications associated with this report.
11. **Equalities:** There are no equalities implications associated with this report.
12. **Legal:** There are no legal implications associated with this report
13. **Crime and Disorder:** Formal enforcement action taken by environmental health, trading standards and licensing services contributes to reducing anti social behaviour and dishonest trading.
14. **Information Technology (IT):** There are no IT implications associated with this report.
15. **Other:** There are no other implications associated with this report.

## Risk Management

16. There are no known risks associated with this report.

## Recommendations

17. That the Cabinet Member approve this report and the continuation of the current enforcement policy.

Reason: So that the Cabinet Member reviews formal enforcement activity undertaken by Environmental Health, Trading Standards, and Licensing Services.

**Contact Details**

**Author:**

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**Chief Officer Responsible for the report:**

Steve Waddington  
Assistant Director (Housing and Public Protection)

**Report Approved**  **Date** 03/05/2011

**Specialist Officer Implications: None**

**Wards Affected:**

**All**

**Background Papers:**

Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services Enforcement Policy (June 2008)

**Annexes**

Annex A: Environmental Health, Trading Standards and Licensing  
Formal Enforcement Action 1<sup>st</sup> January 2011 – 31<sup>st</sup> March 2011

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**Environmental Health, Trading Standards and Licensing  
Formal Enforcement Action 1<sup>st</sup> January 2011 – 31<sup>st</sup> March 2011**

### Animal Health

Defendant	Legislation	Nature of Case	Penalty	Costs
Gillian O'HARA (nee FLETCHER) (Private Individual)	Dogs Act 1871	Dangerous dog	Order to keep dog under proper control	£205.00
Gemma LEWINGTON (Private Individual)	Dogs Act 1871	Dangerous dog	Order to keep dog under proper control and muzzled in public	£100.00
Patricia O'CONNELL (Private Individual)	Dogs Act 1871	Dangerous dog	Order to keep dog under proper control	£205.00
Sharon SPARKS (Private Individual)	Dogs Act 1871	Dangerous dog	Order to keep dog under proper control and muzzled in public	£205.00
Nicholas WADE (Private Individual)	Dogs (Fouling of Land Act) 1996	Dog Fouling	Fine £70.00	£145.00

1 x £50.00 fixed penalty notice was issued under the Dogs (Fouling of Land) Act 1996 for allowing a dog to foul and failing to remove the faeces.

### Food

2 x simple cautions were issued under the Food Safety Act 1990 for displaying a label falsely describing the alcoholic strength of spirits.

### Health & Safety/Licensing

6 x £50 fixed penalty notices were issued under the Health Act 2006 for smoking in a vehicle/premise.

### Environmental Protection

Defendant	Legislation	Nature of Case	Penalty	Costs
Christine GILL (Private Individual)	Environmental Protection Act 1990	Breach of an abatement notice for noise nuisance	12 Months conditional discharge & forfeiture of seized noise equipment	£100.00
Gemma MEAD (Private Individual)	Environmental Protection Act 1990	Breach of an abatement notice for noise nuisance	12 Months conditional discharge & forfeiture of seized noise equipment	£150.00

2 x simple cautions were issued under the Environmental Protection Act 1990 for breaches of abatement notices for noise nuisance.

**Trading Standards**

<b>Defendant</b>	<b>Legislation</b>	<b>Nature of Case</b>	<b>Penalty</b>	<b>Costs</b>	<b>Compensation</b>	<b>Proceeds of crime confiscation</b>
Sharon Diane FARRAR (Owner block paving business)	Fraud Act 2006	Fraud by misrepresentation in the course of re-laying a driveway for an 84 year old victim.	6 months prison sentence suspended for 2 years  320 hours community service	None	£2000.00	N/a
Ian Raymond LEGG (DVD trader)	Proceeds of Crime Act 2002	Application for confiscation and costs for Trade Mark offences.	*N/a	£6000.00	None	£8000.00

\*Sentencing hearing 1 September 2010: 12 month prison sentence suspended for 2 years, 250 Hours Community Service.

1 x simple caution was issued under the Trade Marks Act 1994 for possessing counterfeit UGG boots for sale.

1 x £80.00 fixed penalty notice was issued under the Licensing Act 2003 for selling alcohol to a person under the age of 18.

**Regional Scambuster Team**

2 x simple cautions were issued under the Trade Marks Act 1994 for possessing counterfeit goods and adapting a computer for making illegal copies of DVDs.

2 x court undertakings obtained under the Enterprise Act 2002. The individuals (who sell mobility aids to vulnerable consumers) have undertaken not to breach various consumer protection legislation including that relating to unfair trading practices, the sale of goods and doorstep selling. The individuals have also had to pay £1250 costs each.

Please note: all fines imposed by the Courts are now subject to an additional £15 victim surcharge.
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