

**22 January 2015**

**ITEM: 6**

**Cleaner, Greener and Safer Overview & Scrutiny Committee**

**Illegal Money Lending**

**Wards and communities affected:**

All

**Key Decision:**

**Report of:** Cheryl Wells, Senior Trading Standards Officer.

**Accountable Head of Service:** Gavin Dennett, Head of Service – Public Protection.

**Accountable Director:** David Bull

**This report is Public**

**Executive Summary**

Trading Standards enforce the Consumer Credit Act 1974 with regards to illegal money lending. This legislation has now been updated by the Financial Services Act 2012 and is regulated through the Financial Services and markets Act 2000.

Thurrock Council has a protocol in place with the Illegal Money Lending Team based at Birmingham City Council Trading Standards to allow them to act on our behalf to investigate and take enforcement action in relation loan sharks. This protocol was agreed by Cabinet in June 2010.

This paper is intended to alert members to the change in legislation and ensure the subsequent amended protocol is agreed.

**1. Recommendations: That:**

- 1.1 The committee is asked to recommend to Cabinet that that the discharge of the council function of the enforcement of the Financial Services and Markets Act 2000 and Part III of the Consumer Credit Act 1974 be carried out 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 2012 and Section 13 and 19 of the Local Government Act 2000).
- 1.2 The committee is asked to recommend to Cabinet that the attached updated “Protocol for Illegal Money Lending Team Investigations” be agreed and authority be delegated to the Head of Public Protection to enter into the agreement on behalf of Thurrock Council and approve minor alterations if required.**

## **2. Introduction and Background**

- 2.1 To operate a consumer credit business without authorisation is a criminal offence and carries a maximum penalty of £5,000 and/or up to two years imprisonment. Authorisation can be revoked where it can be established that the authorised business has acted inappropriately. Warnings and conditions, fines and suspension can be issued where necessary.
- 2.2 Illegal money lending covers a range of activities, from persons that are actually authorised but are acting unlawfully, to the extreme of a person offering cash loans without being authorised at all or 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.
- 2.3 An Illegal Money Lending Team was established within Birmingham Trading Standards. 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. The team operate the “parachute in and out model”, with a local presence through regional officers. Funding for the project is provided from the Financial Inclusion Fund administered by the Treasury and managed by the Department for Business, Innovation and Skills (BIS).

## **3. Issues, Options and Analysis of Options**

- 3.1 The Trading Standards team at Thurrock in common with the majority of Trading Standards Departments across the country do not currently have the resources and expertise to operate an effective illegal money lending team. The options available to the Council are to allow illegal money lending activity to proceed unchallenged in its area, to fund and develop its own illegal money lending team, or to take advantage of this government funded initiative to allow victims of illegal money lending to benefit from enforcement activities undertaken by the Birmingham team.

## **4. Reasons for Recommendation**

- 4.1 To enable Thurrock Council, Trading Standards to continue to deal with illegal money lending in an effective way at no cost to the council.

## **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 Not required

## **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 Enforcement by a funded illegal money lending team will contribute to the Council priority, to encourage and promote job creation and economic prosperity. Additionally it will contribute to the priority to ensure a safe, clean and green environment.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Jonathan Wilson**  
**Acting Chief Accountant**

There are no financial implications for Thurrock 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 Thurrock will be contained within the Public Protection budget.

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

### **7.2 Legal**

Implications verified by: **Chris Pickering**  
**Principal Solicitor**

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 and now, with the introduction of the Financial Services Act 2012, the Financial Services and Markets Act 2000. 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 Cabinet as the executive to formally delegate this function to Birmingham City Council under Section 13 to 19 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Birmingham City Council is also required to formally accept the delegation.

### **7.5 Diversity and Equality**

Implications verified by: **Natalie Warren**  
**Community Development and Equalities  
Manager**

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. Entering into the Protocol will help protect vulnerable people from illegal money lending schemes

7.5 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

The detection and prosecution of illegal money lenders contributes to the Council's duty to take into account prevention of crime and disorder in its activities.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Cabinet report from 9<sup>th</sup> June 2010

9. **Appendices to the report**

- Updated Protocol to commence March 2015.

**Report Author:**

Cheryl Wells

Senior Trading Standards Officer

Public Protection