Cabinet Member for Residents Services

The Operation of the Illegal Money Lending Team within West Sussex

Report by Director of Public Protection and Deputy Chief Fire Officer

Executive Summary

In 2009 West Sussex County Council signed a protocol with Birmingham City Council Trading Standards Service which would allow for the operation of the nationally funded Illegal Money Lending Team within West Sussex boundaries.

The protocol was renewed in 2013 and expired at the end of March 2015.

This report seeks approval for West Sussex County Council to re-authorise Birmingham City Council, for a further three year period expiring March 2018, to investigate and institute proceedings against illegal money lenders operating within West Sussex.

Recommendations

1. That the Cabinet Member delegates the function of the enforcement of Part III of the Consumer Credit Act 1974 and the enabling provisions within the Financial Services Act 2012 in respect of matters concerned with the Financial Services and Markets Act 2000 to be carried out in West Sussex by Birmingham City Council and delegates 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 attached “Protocol for Illegal Money Lending Team Investigations” be agreed and authority be delegated to the Director of Public Protection and Deputy Chief Fire Officer to enter into the agreement on behalf of West Sussex County Council and approve minor alterations if required.

1. Background and Context

1.1 The primary legislation governing the consumer credit industry is the Consumer Credit Act 1974 and the Financial Services Act 2012 in respect of matters concerned with the Financial Services and Markets Act 2000. 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 Financial Conduct Authority (FCA). The FCA 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.

1.2 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. 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 violence.

1.3 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.

1.4 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 National Trading Standards Board (NTSB).

1.5 The England team is hosted by Birmingham City Council and continues to provide a resource to investigate illegal money lending across England.

1.6 Birmingham was chosen to lead the new England team due to the efficiencies associated with having just one national team. The team although it is based in Birmingham continues 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.

1.7 **Benefits of IMLT Operating Within West Sussex**

1.8 The IMLT works in the area raising awareness of issues amongst vulnerable, ensuring they are signposted to places that can help them, gathering information, setting up partnerships & referral systems to gather intelligence.
1.9 If any loan shark activities are reported, the IMLT Investigations team investigates and looks to take enforcement action whilst the IMLT also works with the communities & victims targeted.

1.10 The IMLT is funded nationally and there is no cost to West Sussex Trading Standards.

1.11 **Key Statistics**

1.12 Key national statistics for the project up to March 2015:

- Written off over £64 million of illegal debts (money victims would have paid back to illegal lenders if the Department had not acted)
- Taken over 329 prosecutions.
- Secured prison sentencing totalling over 214 years and also one sentence of indefinite length.
- Assisted over 25 thousand victims, including showing them other sources of financial support.
- Trained over 24 thousand front line staff to spot the signs of illegal lenders.

1.13 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, H M Revenue and Customs to facilitate a coordinated approach to tackling crime and disorder.

1.14 The objectives of the national Illegal Money Lending Team are outlined in Appendix A.

2. **Consultation**

2.1 No formal consultation has taken place in relation to this proposal. The advice of the Head of Trading Standards was sought, who supports the proposal.

3 **Proposal**

3.1 The proposal is for West Sussex County Council to re-authorise Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within West Sussex for a further period of three years expiring March 2018, by;

- Agreeing the continued delegation of the function of the enforcement of Part III of the Consumer Credit Act 1974 and the enabling provisions within the Financial Services Act 2012 in respect of matters concerned with the Financial Services and Markets Act 2000 be carried out in West Sussex 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.
• Agreeing the attached “Protocol for Illegal Money Lending Team Investigations” (Appendix B) and that authority be delegated to the Director of Public Protection and Deputy Chief Fire Officer to enter into the agreement on behalf of West Sussex County Council and approve minor alterations if required.

4 Other Options Considered

4.1 As an alternative to delegating powers to Birmingham City Council and utilising the nationally funded IMLT, the work of the IMLT could theoretically be replicated and performed in house by the Trading Standards Service. However, this would require a fundamental shift in terms of resource priorities within Trading Standards. Currently, the Trading Standards Service Plan does not commit resources to illegal money lending activities. If this were to change then either extra resources for Trading Standards would need to be provided, or current activity would have to be identified which could be stopped. The level of resource that would be required to be found would need to be scaled according to the objectives that West Sussex would want to achieve.

4.2 In house delivery would also fail to take advantage of the economies of scale and knowledge enjoyed by dedicated IMLT working nationally across local authority boundaries, including loan shark “brand awareness, a dedicated hotline and experienced specialist investigators.

5. Resource Implications and Value for Money

5.1 There are no costs for the County Council other than for the incidental staff time costs that result from a named Trading Standards Officer being nominated as the single point of contact for the IMLT for on-going liaison as per the proposed protocol. This equates to a maximum of approximately 30 minutes per month of officer time.

5.2 The IMLT work delivers against the Future West Sussex Plan in the following areas

• Helping ensure that the most (financially) vulnerable are supported and safe
• Being there at times of crisis for victims of illegal money lending
• Championing the Local Economy - assisting economic growth by ensuring a level playing field for honest businesses to compete fairly, sustain and grow.

6 Impact of the Proposal

6.1 An Equality Impact Report has been undertaken and is attached as an appendix to this report.

6.2 Crime and Disorder Act Implications

6.3 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.

6.5 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.

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

6.6 Human Rights Act Implications

6.7 Any activities relating to covert surveillance etc. as part of a resulting investigation are governed tightly by the Regulation of Investigatory Powers Act.

7 Risk Management Implications

7.1 There is very little risk associated with this proposal. The nationally funded IMLT is well resourced on an on-going basis, and a key strategic priority for the National Trading Standards Board. Should the funding for IMLT be stopped in the future then West Sussex would just need to consider to what extent the functions of the IMLT are to be replicated in house.

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Background Papers
None
Appendix A

Objectives of the national Illegal Money Lending Team 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.

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. High rise flats are common premises targeted by loan sharks as legitimate lenders do not lend to people residing in this type of accommodation due to the health and safety risks for their collectors.

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.

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.

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.

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.

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.

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.

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.

A proactive media campaign is on-going 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.

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.

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 LIAISE officers (Leads in awareness, intelligence, support and education).