

**CABINET MEMBER FOR POLICY COORDINATION -
19 FEBRUARY 2014**

**AUTHORISATION FOR THE BIRMINGHAM CITY COUNCIL ILLEGAL
MONEY LENDING TEAM TO OPERATE IN OXFORDSHIRE**

Report by Director of Social and Community Services

Introduction

1. This report seeks approval for Oxfordshire County Council to extend the authorisation which enables Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within Oxfordshire.

Background

2. The primary legislation governing the consumer credit industry is the Consumer Credit Act 1974. The Trading Standards Service enforces this Act 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.
4. 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, 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 can be subject to intimidation, theft, forced prostitution and extreme physical violence.
5. An Illegal Money Lending Team was established within Birmingham Trading Standards as a pilot project in England. This was one of only two pilot teams in Great Britain; the other pilot area being Glasgow and 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. The scheme, initially working across the midlands, has been extended to cover the North West, East of England, South East and Yorkshire and Humber areas. The team are wholly funded by the Department for Business, Innovation and Skills (BIS). There is no cost to local authorities that authorise this team to operate in their local area.
7. In November 2009 authority to enforce the Consumer Credit Act 1974 in Oxfordshire was delegated to Birmingham City Council. A project was commenced in January 2010 to raise awareness of the dangers of illegal money lending and the existence of a confidential hotline for victims to use.
8. Since the launch of the initiative a range of awareness raising activities have been carried out. These activities have focussed on ensuring organisations working with at risk communities are alert to the signs of possible illegal money lending and the services the Illegal Money Lending Team can offer. Other activities have sought to raise awareness with at risk communities. In addition, information about loan sharks has been included on the County Council's website and has been provided at more general community events by the Council's Trading Standards team.
9. In the time that the Illegal Money Lending Team has been authorised to work in Oxfordshire, one report of loan shark activity has led to enforcement action. The report was investigated by the Illegal Money Lending Team and illegal money lending was confirmed to be taking place. Enforcement action followed by the Birmingham City Council team and this action was effective in stopping the illegal practice.
10. Nationally, up to the end of December 2012, work undertaken by the Illegal Money Lending Team resulted in-
 - (a) Over 700 illegal money lenders being arrested
 - (b) Over £41 million of illegal debts being written off (money victims would have paid back to illegal lenders if the Team had not acted)
 - (c) Over 293 prosecutions being secured, resulting in prison sentencing totalling over 176 years
 - (d) Over 22,000 victims of loan sharks being helped including some of the most hard to reach individuals
 - (e) Over 2500 victims being referred to alternate (legal) sources of financial support
11. The benefit that this team can bring to Oxfordshire is significant. Oxfordshire Trading Standards Service, like most local authorities, is not able to provide the level of specialist resource to deliver this function. This is an excellent example of how sharing resources on specific issues can bring benefits that would otherwise be unavailable to provide support to vulnerable consumers and to tackle illegal activity.

Delegation

12. It is proposed that the delegation and agreement be extended until 31st March 2017 with a view to considering extending the arrangement if this is appropriate at that time.
13. This delegation does not prevent Oxfordshire County Council's Trading Standards Service from undertaking functions under the Consumer Credit Act 1974.

Legal Considerations

14. 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 Cabinet as 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.
15. Any investigations or prosecutions will be undertaken by Birmingham City Council with no liability for costs to Oxfordshire County Council.

Financial and Staff Implications

16. There are no financial implications for Oxfordshire County Council as a result of this proposal. All major costs of the project are met by central Government. Incidental costs in providing a work base for officers operating in Oxfordshire if necessary for specific operations will be contained within the Trading Standards Service budget. Other than costs of printing leaflets and similar items and attending talks and presentations there have been no costs incurred as a result of the team's activities in Oxfordshire to date.

Conclusions

17. This proposal, if agreed, will enable Oxfordshire Trading Standards Service to continue to have access to a team of highly trained experts from the IMLT. This will contribute to delivery of the County Council priority to provide for Healthy and Thriving Communities.
18. This area of law enforcement requires specialist resources, expertise, techniques and facilities which Oxfordshire Trading Standards Services 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.

19. The recommendations will support performance of the Authority's duty in relation to enforcement of the provisions of the Consumer Credit Act 1974.

RECOMMENDATION

20. **The Cabinet Member for Policy Coordination is RECOMMENDED to agree:**
 - (a) **to continue the delegation of the function of the enforcement of Part III of the Consumer Credit Act 1974 to be carried out in Oxfordshire by Birmingham City Council and to 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;**
 - (b) **that authority be delegated to the Trading Standards and Community Safety Manager to enter into a further agreement with Birmingham City Council on behalf of Oxfordshire County Council to enable the Illegal Money Lending Team to operate in Oxfordshire and to make minor alterations to this agreement if required.**

JOHN JACKSON

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Background papers: Nil.

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