

Delegated decision report

DECISION UNDER DELEGATED POWERS

**DECISION CANNOT BE TAKEN BEFORE MONDAY,
25 JANUARY 2010**

Title **AUTHORISATION OF ILLEGAL MONEY LENDING TEAM TO INVESTIGATE AND INSTITUTE PROCEEDINGS AGAINST ILLEGAL MONEY LENDERS OPERATING ON THE ISLE OF WIGHT**

Report to the: **CABINET MEMBER FOR FIRE AND COMMUNITY SAFETY**

PURPOSE

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

OUTCOMES

2. Delegation of powers to enforce the law on illegal money lending to the Birmingham City Council's Illegal Money Lending Team would give access to a highly expert and specialised resource that would not be available to the area by any other means.
3. To have an Illegal Money Lending Team operating on the Isle of Wight would be a major benefit to vulnerable people who may find themselves subject to the criminal activities of 'loan sharks'. It also contributes to the wider crime and disorder agenda.

BACKGROUND

4. Illegal moneylenders, or 'loan sharks', are those who lend money to people and do not have a licence to do so. 'Loan sharks' prey on some of the most vulnerable people in society. Far from helping people, 'loan sharks' tend to create and exacerbate a cycle of debt. At a time of economic downturn there are greater opportunities for 'loan sharks'. It has always proved very difficult to bring them to justice.
5. A loan from an illegal moneylender is, on average, three times the cost of the same loan from someone operating legally. Interest rates are often extortionate and some 'loan sharks' will stop at nothing to collect dues from victims, or to demonstrate their power within communities. 'Loan shark' activity is characterised by deliberate criminal fraud and borrowers can face demands for thousands of pounds more that

they originally borrowed. Borrowers who refuse or fail to pay can be subjected to intimidation, theft and physical violence.

6. 'Loan sharks' do not respect local authority boundaries and seldom restrict their criminal activities only to illegal money lending.
7. The Consumer Credit Act 1974 is the primary legislation governing the Credit Industry. The Act is based upon a licensing system and all consumer credit businesses must possess a Consumer Credit Licence issued by the Office of Fair Trading. To obtain a licence an applicant must demonstrate that they are a fit and proper person to operate a credit business. All persons operating credit businesses must comply with comprehensive regulations about the conduct of their business. Regulations cover all aspects of the business and include requirements on advertising, form of agreements and the supply of information. A moneylender who was not licensed would be acting illegally, as would a licensed moneylender who did not comply with the other requirements of the credit legislation.
8. It is the duty of each 'local weights and measures authority' i.e. the Trading Standards Service, to enforce the provisions of the Consumer Credit Act within their local authority boundary.
9. The Isle of Wight Trading Standards Service is able to deal with routine advice and enforcement under consumer credit legislation. Enforcement of the law in respect of illegal money lending, however, is not a practical proposition for the majority of Trading Standards Services. Investigation of illegal money lending is a specialist activity and is very resource intensive. Often investigations will reveal evidence of other illegal activity and may involve other agencies. Additionally victims require specialist handling and support. Until the introduction of the Illegal Money Lending Teams this was an aspect of trading standards work that had not been addressed over most of the country.
10. Government (Department for Business, Innovation and Skills, formerly Department for Business, Enterprise and Regulatory Reform) recognised that a different approach was needed in respect of enforcement around illegal money lending. Initially, in 2004, funding was made available under the Illegal Money Lending Project for pilot regional specialist teams to be set up in Glasgow and Birmingham. The teams were spectacularly successful in combating illegal money lending in those areas. Since 2004, further funding has been made available to expand the pilot into several other high need areas. 2007/08 saw the project rolled out throughout England and it was announced in December 2007 that BERR would continue to fund an illegal money lending team in every region in Great Britain until March 2011.
11. The Illegal Money Lending Teams originally targeted their activity in the areas identified in research as areas where the incidence of illegal money lending activity was likely to be particularly high. In the South East those areas were Portsmouth, Southampton and Hastings. However, criminals do not respect administrative borders and intelligence and the publicity that the Loan Shark initiative has generated has resulted in the team now working over a much wider area. All of the Trading Standards Authorities bordering the Isle of Wight, together with many others in the South East, are now actively covered by the Loan Shark initiative. The Illegal Money Lending Team covering the South East is operated by the Trading Standards Service of Birmingham City Council. This team was one of the original pilot teams.

12. So far, the Illegal Money Lending Teams have successfully prosecuted more than 60 people nationally with a further 90 prosecutions underway. Custodial sentences for illegal lending and associated crimes total over 50 years. The teams have saved around £30 million for consumers who were locked into deals with illegal moneylenders.
13. The teams do not restrict their activity to simply prosecuting offenders. The Illegal Money Lending Team will help victims of illegal moneylenders with practical help and support. The team offers money management help to all victims of moneylenders who contact them for advice and assistance. It is one of the aims of the teams to create a climate where victims can come forward, confident that prosecutions will be undertaken and convictions obtained, without fear of reprisals. So far, more than 10,000 victims of illegal money lending have been helped.
14. This is a highly specialised area of activity requiring specialist resource, expertise techniques and facilities that most Trading Standards Services could not provide. Members of the Illegal Money Lending Team include officers with high-level training and expertise and includes, amongst others, ex police officers and security services personnel.
15. If evidence comes to light of illegal money lending activity occurring on the Island, the Isle of Wight Trading Standards Service would be ill equipped to deal with it without the specialist services of an Illegal Money Lending Team.
16. Publicity is a key element of the Illegal Money lending Teams and when a team starts to operate in an area there is normally a high profile launch.
17. A national contact telephone number, together with text/SMS number and Email address is available to report illegal money lending and for victims to seek support. These are supported by national publicity.
18. As previously mentioned (at 8. above) it is the duty of this Authority to enforce the provisions of the Consumer Credit Act 1974 in this area. This is an executive function for the purposes of the Local Government Act 2000 and associated legislation. For the Illegal Money Lending Team of Birmingham City Council to operate on the Isle of Wight it will be necessary to formally delegate power to enforce the provisions of Part III of the Consumer Credit Act 1974. It is necessary for Birmingham City Council to be satisfied that the delegation is robust and properly executed.
19. 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 officers to undertake investigations and legal procedures.
20. This delegation would not interfere with the duty of the Isle of Wight Council Trading Standards Service from undertaking the enforcement of the full range of Consumer Credit legislation.
21. It is proposed that the delegation will continue until 31st March 2011 with a view to extending the arrangement if successful and assuming continued direct government funding to the regional teams is available.

STRATEGIC CONTEXT

22. The recommendation will contribute to the following corporate themes and outcomes:

- A Safe and Well Kept Island
 - Reduce crime and the fear of crime
- A Healthy and Supportive Island
 - Improve emotional health
 - Support vulnerable people
- Delivering Better Services
 - Enhance the Council's reputation.
 - Improve performance and value for money.
 - Work consistently and cohesively with partners.
 - Prioritise and rationalise resources.

CONSULTATION

23. There has been consultation with other Local Authorities and the Trading Standards regional grouping organisation, TSSE (Trading Standards South East). All of our neighbouring authorities have already agreed that the Illegal Money Lending Team may operate in their areas and have entered into similar arrangements to those set out in this report. It is a duty of the Isle of Wight Council to enforce the provisions of the Consumer Credit Act 1974 and this decision is only required to provide a means of enforcing a part of the Act that would otherwise not be practicable. It is an operational issue rather than one of policy.

FINANCIAL / BUDGET IMPLICATIONS

24. There are no financial implications for the Isle of Wight Council as a result of this proposal. All major costs will be funded by the Treasury directly, to Birmingham City Council. It may be necessary in very infrequent circumstances to provide a work base for officers operating on the Island, but this would have no monetary value and would be provided in kind within the existing Trading Standards Service facilities.

LEGAL IMPLICATIONS

25. 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. It is, therefore, necessary for the Council, in this case by means of a delegated decision of the Cabinet Member, 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.

26. Birmingham City Council will undertake any prosecutions with no liability for costs for the Isle of Wight Council.

EQUALITY AND DIVERSITY

27. This is a technical issue that does no more than extend the ability of the council to effectively enforce a part of the Consumer Credit Act 1974. However, 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. This includes members of our diverse community. The effect of this decision will be to seek to address this.
28. An Equality Impact Assessment has been completed. In summary the assessment found that all parts of the community and all groups of residents will benefit from the available access to the service of the Illegal Money Lending Team and that no action plan was required.

OPTIONS

29. Option 1. Do nothing. The effect of this would be to deprive the Island community, particularly those who may become victims of 'loan sharks', of the opportunity of bringing these criminals to justice and support with the associated quality of life issues. There are no viable alternatives for providing the facility, other than that set out in Option 2.
30. Option 2. With effect from 1st February 2010, that the Isle of Wight Council agree that the discharge of its function of the enforcement of Part III of the Consumer Credit Act 1974 be carried out on the Isle of Wight 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). Additionally that the attached "Draft Protocol for Illegal Money Lending Team Investigations" be agreed and authority be delegated to the Trading Standards Manager to enter into the agreement on behalf of the Isle of Wight Council and approve minor alterations if required.

RISK MANAGEMENT

31. The risk in adopting this partnership approach by giving delegated powers to Birmingham City Council is very low. The other authority, which is the employer of the officers within the Illegal Money Lending Team, would carry any risk that could arise. Birmingham City Council would undertake any investigations and prosecutions with no liability for costs for the Isle of Wight Council.
32. There are no reputational risks to the Isle of Wight Council by adopting this approach. It is likely that there would be a greater risk if the approach was not adopted and it later came to light that a 'loan shark' was operating in the area and the Council had not taken the opportunity of implementing the means to deal with it.

EVALUATION

33. Delegation of powers to enforce the law on illegal money lending to the Illegal Money Lending Team would give access to a highly expert and specialised resource that would not otherwise be available.
34. To have an Illegal Money Lending Team operating on the Isle of Wight would be a major benefit to vulnerable people who may be subject to the criminal activities of loan sharks and, of course, to the wider crime and disorder agenda.

RECOMMENDATION

35. With effect from 1st February 2010, that the Isle of Wight Council agree that the discharge of its function of the enforcement of Part III of the Consumer Credit Act 1974 be carried out on the Isle of Wight 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). Additionally that the attached "Draft Protocol for Illegal Money Lending Team Investigations" be agreed and authority be delegated to the Trading Standards Manager to enter into the agreement on behalf of the Isle of Wight Council and approve minor alterations if required. (By this means The Isle of Wight Council authorise Birmingham City Council to investigate and institute proceedings against illegal moneylenders operating within the Isle of Wight Council area and to provide and manage suitable support mechanisms)

APPENDICES ATTACHED

36. [APPENDIX](#) - Draft Protocol for Illegal Money Lending Team Investigations.

BACKGROUND PAPERS

37. None

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MR STUART LOVE
Director of Environment and
Neighbourhoods

COUNCILLOR BARRY ABRAHAM
Cabinet Member for Fire
and Community Safety

Decision

Signed

Date
