
Cabinet Member for Policing and Equalities

26 February 2015

Name of Cabinet Member:

Cabinet Member for Policing and Equalities – Councillor Townshend

Director Approving Submission of the report:

Executive Director of Place

Ward(s) affected:

All City Wards

Title:

Continued Authorisation of the England Illegal Money Lending Team

Is this a key decision?

No

Executive Summary:

This Report seeks to renew the authorisation for officers employed by Birmingham City Council, who operate a National Trading Standards Team known as the England Illegal Money Lending Team, to investigate illegal money matters that may arise in Coventry. Such investigations fall within the relevant sections of the Financial Services and Markets Act 2000, as delegated through the Financial Services Act 2012 and Part III of the Consumer Credit Act 1974.

Previous authorisations have been given by the Cabinet Member (City Services) in 2009 and 2011 to Birmingham City Council who manage the Illegal Money Lending Team.

The current authorisation is due to expire on 31/03/2015.

Recommendations:

The Cabinet Member for Policing and Equalities is asked to:

1. Approve the delegation of authority to Birmingham City Council to enforce the legislation specified in the Appendix to this Report by virtue of Regulation 5 of the Local Authorities [Arrangements for the Discharge of Functions] [England] Regulations 2012 and/or Sections 9D to 9EB of the Local Government Act 2000;
2. Authorise officers to negotiate and sign the terms of any protocol and ancillary legal agreements with Birmingham City Council to facilitate the arrangements, in accordance with the Council's Constitution.

List of Appendices included:

Appendix 1 - List of specified legislation.

Other useful background papers:

Papers open to Public Inspection – Protocol for the England Illegal Money Lending Team Investigations 2015

Other Useful documents

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Continued Authorisation of the England Illegal Money Lending Team

1. Context (or background)

- 1.1 Through the National Trading Standards Board [NTSB], Birmingham City Council receives funding from the Department for Business, Innovations & Skills [BIS] to operate an Illegal Money Lending Team that covers the whole of England.
- 1.2 The England Illegal Money Lending Team's remit is to investigate illegal money lending activity and to bring to justice those persons carrying on this activity.
- 1.3 Illegal moneylending covers a range of activities, from persons who are actually authorised by the Financial Conduct Authority [FCA] but are acting unlawfully, to persons offering cash loans without being authorised at all [i.e. loan sharks]. Loan shark activity is characterised by deliberate criminal fraud and theft, with extortionate rates of interest being applied meaning borrowers facing demands for payment of thousands of pounds more than they initially borrowed, and they can often never pay off the loans. Borrowers who fail to pay may be subject to intimidation, theft, forced prostitution and other extreme physical violence.
- 1.4 The primary legislation governing consumer credit is the Consumer Credit Act 1974 which was updated by the Financial Services Act 2012. Trading Standards enforces the relevant provisions of this legislation which provides that any business or individual engaging in this area should be authorised by the Financial Conduct Authority [FCA]. The FCA must be satisfied that an applicant is a fit and proper person and that the business fits within the FCA's operating criteria.
- 1.5 Since the initial pilots which were established in September 2004, the Teams have achieved a number of notable successes: over £60 million of illegal debts have been written off [i.e. money victims would have paid back to illegal lenders], over 321 prosecutions secured (resulting in prison sentencing totalling over 200 years), and assistance given to over 25,000 victims of loan sharks including some of the most hard-to-reach individuals.
- 1.6 It is necessary to delegate enforcement powers to officers from Birmingham City Council to allow the England Illegal Money Lending Team to investigate any offences that are committed in Coventry.

2. Options considered and recommended proposal

- 2.1 There are two courses of action available in relation to the proposal:
 - (1) Approve the delegation of authority to Birmingham City Council through the England Illegal Money Lending Team, to enforce legislation specified in the Appendix to this report. This is the option recommended by officers.
 - (2) Not approve the delegation of authority which would leave Coventry Trading Standards to investigate its own cases subject to existing priorities and resources without additional support.

3. Results of consultation undertaken

- 3.1 None required. The decision relates to delegation of existing powers to additional officers to boost the resources available to Coventry. There is no change in Policy.

4. Timetable for implementing this decision

- 4.1 The recommendations if approved would be implemented immediately after the 2015 Protocol with Birmingham City Council has been signed.

5. Comments from Executive Director of Resources

5.1 Financial implications

There are no additional financial implications or liabilities imposed upon Coventry City Council as a result of this arrangement as all costs will be borne entirely by the Birmingham City Council.

An indirect administrative cost will be incurred if the Licensing and Regulatory Committee is called upon to make a decision on whether or not to authorise the institution of legal proceedings against an alleged offender.

5.2 Legal implications

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 that Act within their local authority boundary. However, under Regulation 5 of the Local Authorities [Arrangements for the Discharge of Functions] [England] Regulations 2000, and/or Sections 9D to 9EB of the Local Government Act 2000' officers of the England Illegal Money Lending Team, employed by Birmingham City Council, can be authorised to exercise powers on behalf of Coventry City Council.

Birmingham City Council will be responsible for all aspects of investigations and responsibilities under the Criminal Proceedings and Investigations Act 1986, Regulatory of Investigatory Powers Act 2000, Data Protection Act 1998, Freedom of Information Act 2000 and the Enterprise Act 2002.

When carrying out the investigation and the potential prosecution of offences, Birmingham City Council will have regard to their Enforcement Policy as well as the Code for Crown Prosecutors and the Regulators` Compliance Code.

Information and intelligence provided between authorities will be used for the purpose of preventing and detecting crime and subject to the disclosure provisions of Part 9 of the Enterprise Act 2002.

The delegation of the enforcement will be the subject of a Protocol to be entered into between Coventry City Council and Birmingham City Council which will also be approved by Legal Services.

The purpose of the protocol is to facilitate the delegation of powers to Birmingham City Council and officers employed in the Illegal Money Lending Team to enforce the provisions of the Consumer Credit Act 1974, to include matters in respect of the Financial Services and Markets Act 2000 within Coventry.

The Protocol will not prejudice the right of Coventry City Council to withdraw the delegated authority at any time during the term of the agreement.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry Sustainable Community Strategy

Trading Standards help promote growth and provide a fair and safe trading environment. Those businesses or individuals that take an unfair advantage distort the trading environment and put consumers at a disadvantage and at risk.

6.2 How is risk being managed?

There are no significant risks for Coventry City Council. All financial and legal risks will be carried by Birmingham City Council.

Birmingham City Council will be liable for the actions and competence of the persons employed within the Illegal Money Lending Team, and shall ensure that the Illegal Money Lending Team 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.

Birmingham City Council will be solely responsible for the Health & Safety of persons employed within the Illegal Money Lending Team.

6.3 What is the impact on the organisation?

If cases with a national or regional impact are investigated and enforcement action taken by Birmingham City Council through the England Illegal Money Lending Team, then harm to Coventry consumers and businesses will stop or reduce and officer resources in Coventry can be used to investigate other local priorities.

6.4 Equalities / EIA

There are no specific groups that this decision will have an impact on. This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant to this case.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None

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Councillor Townshend	Cabinet Member for Policing and Equalities		26.01.2015	04.02.2015

Appendix 1

List of Specified Legislation

Consumer Credit Act 1974
Financial Services Act 2012
Financial Services and Markets Act 2000

and all secondary legislation made under any of the specified legislation.