

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	CABINET
DATE:	7 NOVEMBER 2012
SUBJECT:	ILLEGAL MONEY LENDING INVESTIGATIONS AND LEGAL AUTHORISATIONS
REPORT FROM:	CLLR G CAMPBELL - CABINET MEMBER (NEIGHBOURHOODS AND REGENERATION)
CONTACT OFFICER:	P JAGGER – HEAD OF TRADING STANDARDS
TYPE OF DECISION:	CABINET (KEY DECISION)
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	It is proposed that powers be delegated to an established national team to investigate illegal money lending within Bury.
OPTIONS & RECOMMENDED OPTION	<p>Cabinet are asked to agree:</p> <ol style="list-style-type: none"> 1) That Birmingham Council be authorised to institute proceedings against illegal money lenders operating in Bury. 2) That a Protocol be entered into with Birmingham City Council, delegating concurrent powers and duties in respect of Part III of the Consumer Credit Act 1974 3) That the Assistant Director of Legal and Democratic Services in consultation with the Head of Trading Standards be delegated to enter into and sign the terms of the Protocol on behalf of the Council (and terminate when appropriate). <p>Alternative Option (not recommended)</p> <p>That Bury Council does not agree to sign up to the protocol for the illegal money lending team.</p>

IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	<p>Use of the services of the team will reduce the risk to consumers in Bury from rogue money lenders.</p> <p>The protocol includes arrangements to manage the activities, and therefore any potential risks, arising from the work undertaken by the team within Bury, including advance notification of any publicity surrounding cases.</p> <p>Any costs incurred by the national team will be borne by Birmingham City Council</p>
Statement by Executive Director of Resources:	<p>The national illegal money lending team is supported by funding from the Department of Business Innovation and Skills (BIS).</p> <p>From 1 April 2012 responsibility for the teams moved to The National Trading Standards Board, which has agreed to keep the teams in place and match previous levels of funding during 2012/13.</p> <p>There is no cost to the Council for the use of the services of the team.</p>
Equality/Diversity implications:	No (see paragraph below)
Considered by Monitoring Officer:	Yes The legal implications are set out in the report
Wards Affected:	ALL
Scrutiny Interest:	

SK

JH

TRACKING/PROCESS

DIRECTOR: EDS

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
24.10.12	15.10.12 22.10.12		
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 Illegal money lending is a criminal offence. The lenders prey on the most vulnerable in society, people who need money and do not have the availability of conventional sources. In many cases moneylenders resort to intimidation and violence in order to secure payment. Evidence suggests that illegal money lending is operated across all sectors of the community but with the majority of people being in receipt of benefits.
- 1.2 The primary legislation governing the consumer credit industry is the Consumer Credit Act 1974 and this is enforced in each local authority area by the Trading Standards Service. The Act is based on a licensing system and all consumer credit and hire businesses largely possess an appropriate licence. The Office of Fair Trading must be satisfied that an applicant for a licence is a fit and proper person before issuing.
- 1.3 Illegal money lending covers a range of activities from persons who are actually licensed but are acting unlawfully (for example canvassing off trade premises) to the extreme of a person offering cash loans without being licensed at all.
- 1.4 In 2011 a national team was created after pilot projects were carried out. This is managed by Birmingham City Council (BCC). The remit of the Team is to investigate illegal money lending activity, establish if a problem exists and if so to bring to justice those persons carrying on this activity.

2.0 ISSUES

- 2.1 The Trading Standards section has been advised that illegal money lending, with violence being used to secure payment, is taking place within in the Borough. The best way to deal with this is to allow the national team to investigate. They can not do this unless we sign up to the protocol. This would allow members of Birmingham based team to investigate offences in Bury Council and with our assistance take effective action.
- 2.2 Utilising the current infrastructure of the existing Birmingham Team requires proper authorisation of the officers to carry out investigations and for all the associated legal processes and costs to be delegated to BCC. This would in effect be delegating power to BCC to enforce the provisions of the Consumer Credit Act 1974 within the area of Bury Council. However it will remain an option for this power to be rescinded at any time.
- 2.3 It is recognised that after Delegated Power is granted to BCC, all decisions concerning the pursuance of relevant investigations, decisions to prosecute and the laying of charges and/or information on such relevant matters within Bury, shall be taken by BCC and in accordance with the relevant Code for Crown Prosecutors and BCC's Enforcement Policy.
- 2.4 BCC, where possible, will consult with Bury Trading Standards in good time before issuing any press release concerning any prosecution pursued by BCC pursuant to this Protocol.
- 2.5 BCC shall be liable for the actions and competence of the persons employed in any investigation and shall ensure that all legislative requirements are met and take all reasonable steps to ensure any actions taken are lawful and within the spirit of the protocol.

2.6 There have been no adverse issues, nationally, in relation to the illegal money lending team.

3.0 CONCLUSION

3.1 Signing up to the protocol is the most effective way to respond to this issue and in the alternative this particular illegal money lender and any subsequent illegal operations may continue unchecked.

3.2 Cabinet is therefore asked to agree the recommendations

List of Background Papers:- Protocol for Illegal Money Lending Investigations

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