

## CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**17 MARCH 2011**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

### **CABINET DECISION**

Housing & Community Safety – Lead Cabinet Member – Councillor Nelson

#### **DELEGATION OF POWERS FOR ENFORCEMENT OF PART III OF THE CONSUMER CREDIT ACT 1974**

1. Summary

This report seeks approval for Stockton Borough Council to authorise Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within the Stockton Borough Council area.

2. Recommendations

1. Cabinet agree the delegation of the function of the enforcement of Part III of the Consumer Credit Act 1974 be carried out in Stockton Borough Council area 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.
2. The attached “Protocol for Illegal Money Lending Team Investigations” (**Appendix**) is agreed and authority be delegated to the Trading Standards & Licensing Manager to enter into the agreement on behalf of Stockton Borough Council and approve minor alterations if required.

3. Reasons for the Recommendations/Decision(s)

These delegations are required for the Illegal Money Lending project to continue within the Stockton Borough Council area.

4. Members

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council’s code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member’s judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

**Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.**

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ACT 1974**

**SUMMARY**

This report seeks approval for Stockton Borough Council to authorise Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within the Stockton Borough Council area.

**RECOMMENDATIONS**

1. Cabinet agree the delegation of the function of the enforcement of Part III of the Consumer Credit Act 1974 be carried out in Stockton Borough Council area 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.
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**DETAIL**

- 1 Historically, illegal money lending, although widespread in deprived communities, has been a largely invisible and little understood crime in the UK with few authorities having the necessary resources to enforce the law effectively, leaving victims isolated, vulnerable and with little means of redress.
- 2 A pilot Illegal Money Lending (IML) project was launched in 2004, as part of a wider strategy to tackle over-indebtedness and financial exclusion. Following the success of the pilot project and research commissioned by the then Department for Trade and Industry which provided the first estimates of the scale and impact of the problem, the national IML project was established in late 2007. The national project has been managed by the Department for Business, Innovation and Skills (BIS) since its inception.
- 3 The total amount of funding committed to the national project from 2007/8 to March 2010 was £13.6m (cash terms). The bulk of the national project funding has been provided by BIS (£10.8m), augmented by a contribution of £2.8m from the Financial Inclusion Fund to assist with the national project start-up in 2007/8. When the pilot project funding (£2.1m) is included, total funding for the IML project over the period from 2004 through to end-March 2010 amounted to £15.7m.

4. The IML project was implemented on a decentralised basis. Seven regional teams were set up, with some common features but differences in delivery models, with teams of differing sizes, all of which were hosted by Trading Standards and local authorities.
5. The Central England Trading Standards Authorities (CENTSA) IML team are the largest team, based in Birmingham and operated by Birmingham City Council and they cover a large swathe of central and southern England, including the North West, Yorkshire and Humberside, the West Midlands, East of England and the South East regions. The remaining English regions were each covered by a separate IML Team, i.e. the North East, the East Midlands, London and the South West. IML Teams also operate in Scotland and Wales. The North East Trading Standards Association (NETSA) IML Team has served the needs of the Stockton area with any offences discovered in Stockton being reported to Stockton's Trading Standards & Licensing Manager who has approved any necessary prosecutions. In the last two years there has been two prosecutions involving a total of five defendants. Governance of the NETSA IML team was undertaken by the NETSA Executive Board, Stockton's Trading Standards & Licensing Manager being a member of that Executive Board. Funding for the NETSA IML team operations will cease on 31 March 2011 and the team is currently being disbanded, this will mean the loss of 7.8 FTE posts.
6. On the 29<sup>th</sup> December 2010 Business Minister Edward Davey announced that £5.2 million in funds will be available to continue the national IML project for 2011/12 through the trading standards service. In addition, the minister also announced that BIS intended to restructure the project by moving the project to a three national team model. The Minister indicated that BIS were looking to maintain front line services whilst providing a value for money project. The England team will be hosted by Birmingham City Council and will continue to provide a resource to investigate illegal money lending across England. Birmingham was chosen to lead the new England team due to the efficiencies associated with the expansion. This was favoured to creating a brand new team that would attract high development and set up costs. Centralising national services was thought key to the survival of the project. The governance of this team will be undertaken by the CENTSA Executive Board.
7. The benefit that this team can bring to Stockton is significant. Stockton Trading Standards & Licensing Service, like most local authorities, is not able to provide the level of specialist resource to provide this function. This is an excellent example of how sharing resources on specific issues can bring benefits otherwise unavailable in providing support to vulnerable consumers and tackling rogues.
8. Birmingham City Council requires formal delegation of functions by this authority in order to expand the scheme into Stockton, to carry out the investigations etc under the Act and to prosecute any matters in the area. It is proposed that the delegation should continue until 31st March 2013 with a view to extending the arrangement if successful and appropriate national funding is still available. This delegation can be withdrawn at any time should the authority wish to do so.
9. To ensure clarity in respect of the operation of these arrangements, the draft protocol attached as Appendix One sets out the processes and practices to enable Birmingham City Council and its officers to undertake investigations and legal procedures. This delegation does not prevent Stockton Trading Standards and Licensing Service from undertaking the function.

## FINANCIAL IMPLICATIONS

9. None – The costs of the IML Team will be met through BIS grants.

## LEGAL IMPLICATIONS

10. Article 11 of the Constitution - Joint Arrangements requires specific Cabinet approval for this delegation
11. Function 428 (page 188). Authorising the establishment of new or revised joint arrangements with any one or more local authorities regarding any of the Council's statutory functions which are executive in nature.

## RISK ASSESSMENT

12. The corporate risk management system has been used to assess the level of risk. The risk to adopting this partnership approach by providing delegated powers is assessed as low. The approach removes any risk to future funding of this work as the officers will be employed by another local authority.

## SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

13. **Safer Communities:** The delegation of these powers to Birmingham city Council will ensure that an enforcement presence remains in Stockton to protect vulnerable groups from the actions of loan sharks and deter illegal money lenders from trading in the area.

## CONSULTATION INCLUDING WARD/COUNCILLORS N/A

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Education related? No

Background Papers N/A

Ward(s) and Ward Councillors: N/A

Property N/A