

meeting **CABINET**

date 27<sup>th</sup> July 2011

agenda item number **9**

## **REPORT OF THE CABINET MEMBER FOR COMMUNITY SAFETY**

### **AUTHORISATION OF THE NATIONAL ILLEGAL MONEY LENDING UNIT HOSTED BY BIRMINGHAM CITY COUNCIL**

#### **PURPOSE OF REPORT**

1. To obtain approval by Cabinet for the Executive of Birmingham City Council to act on behalf of Nottinghamshire County Council in undertaking the enforcement of the legislation specified in **Appendix A** attached to this report for the purposes only of authorising the Illegal Money Lending Unit, operated by Birmingham City Council, to carry out work on behalf of Nottinghamshire County Council.

#### **INFORMATION AND ADVICE**

2. The Department for Business, Innovation and Skills (BIS) funds a national project to deal with the activities of "loan sharks". Between 2007 and 2011 the project was delivered regionally by a team based in the City of Nottingham. Nottinghamshire County Council delegated its powers under the Consumer Credit Act 1974 and associated legislation to the team to enable them to work in the county.
3. BIS have recently changed the delivery arrangements, and from April 2011, the service is provided by a national Illegal Money Lending Section (IMLS) based in Birmingham. To carry out work in Nottinghamshire, it is now necessary for the County Council to delegate its powers to Birmingham City Council who provide the service under contract to BIS.
4. The aim of the Section is to work closely with partner agencies to develop a multi-agency approach to tackle illegal money lending and associated problems across the country. One strand of this approach is through the enforcement of relevant Trading Standards legislation, notably the Consumer Credit Act 1974 which regulates money lending in this Country.
5. Legitimate money lenders have to apply to the Office of Fair Trading for a credit licence. The application process involves a detailed assessment of the applicant's fitness to hold a licence with a number of checks being made including scrutiny of previous convictions.
6. Illegal and unlicensed money lenders prey on the most vulnerable members of society, they often cause immense misery and all too often adopt threatening and

violent tactics when things go wrong. They usually charge extortionate rates of interest and pursue debtors by unlawful means. These crimes are often unreported due to the threat of reprisals. There is a need for a specialist team to tackle the problem

7. This report seeks to obtain approval for the Enforcement Function of the Consumer Credit Act 1974, which is a duty of Nottinghamshire County Council to be delegated to Birmingham City Council in order that they can exercise powers within the County. In addition, there is a need to delegate functions under associated legislation to Birmingham City Council to maximise action taken against 'loan sharks'.
8. This delegation will enable Birmingham City Council to authorise the Illegal Money Lending Section staff to undertake investigations in Nottinghamshire and also to commence legal proceedings including the prosecution of offenders. It does not in any way alter or take away the existing Enforcement Function of Nottinghamshire County Council in relation to any of this legislation.
9. A working protocol has been drawn up setting out terms and conditions relating to the delegation which both authorities will sign up to and abide by. Officers of the Section will be authorised to investigate cases and compile reports on the evidence that they uncover. Prosecutions and other legal proceedings will be instituted and conducted by Birmingham City Council. Safeguards exist to ensure that this will not happen without consultation with the Group Manager Trading Standards in Nottinghamshire. The Section may, at any stage, decide not to proceed with or conduct further investigation into a particular matter. In such a case the matter may be referred back to Nottinghamshire County Council who may take further action as it may wish.
10. During investigations Birmingham City Council Officers will adhere to statutory codes of practice including those relating to the use of regulatory powers, surveillance and information disclosure.
11. This process will not have a major impact on the work of Nottinghamshire County Council's Trading Standards Service but should offer benefits to some of our most vulnerable consumers.
12. The enforcement function under the Consumer Credit Act 1974 is an Executive Function and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2000 enable the Executive to make arrangements for the discharge of a function by another Executive (Birmingham City Council).
13. The Birmingham City Council Illegal Money Lending Section represents a further example of joint working undertaken by Trading Standards Services, made possible by funding provided by Central Government. The expectation on Services to work in a joined-up way will only increase in the future. It is important that the County Council maximises the benefit of the opportunities that these bring.

## **STATUTORY AND POLICY IMPLICATIONS**

14. This report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, crime and disorder. Where such implications are material, they have been described in the text of the report.

### Financial Implications

15. There are no cost implications for the County Council in this matter.

### Human Resources Implications

16. There are no human resources implications for Nottinghamshire County Council.

### Equal Opportunities Implications

17. The work of the Unit will protect all members of our communities. Many victims are less well off, financially excluded and vulnerable. The criminal activities of loan sharks affect many other people too and undermine the legitimate businesses in the county providing access to loans and financial services with the necessary regulation and legal protection for borrowers.

## **RECOMMENDATION**

18. It is recommended that Cabinet approve:
- a. the delegation of enforcement functions as set out in this report to Birmingham City Council to enable the Illegal Money Lending Unit to undertake investigations and take appropriate enforcement actions in the Nottinghamshire area for the period up to 31<sup>st</sup> March 2015, or until such time as Nottinghamshire County Council elects to withdraw from the agreement
  - b. the enforcement of the legislation in Nottinghamshire in so far as it relates to illegal money lending as set out in **Appendix A** be delegated to Birmingham City Council
  - c. a progress report to the Cabinet Member for Community Safety after 6 months.

## **COUNCILLOR MICK MURPHY**

Cabinet Member for Community Safety

## **FINANCIAL COMMENTS OF SERVICE DIRECTOR – FINANCE (RWK 05/07/2011)**

19. There are no financial implications arising from the proposals in the report.

## **LEGAL SERVICES COMMENTS (NAB 27/06/2011)**

20. Cabinet has authority to approve the recommendation set out in this report.

## **BACKGROUND PAPERS AVAILABLE FOR INSPECTION**

21. Protocol for Illegal Money Lending Section Investigations.

## **ELECTORAL DIVISIONS AFFECTED**

22. All.

