



Agenda item:

Cabinet

On 13 October 2009

Report Title : Authorisation to officers of the London Borough of Tower Hamlets Illegal Moneylending Team to enforce parts of the Consumer Credit Act within the London Borough of Haringey

Report authorised by **Niall Bolger, Director of Urban Environment**

Signed :

Contact Officer : Paul Boeuf (x 5537) (paul.boeuf@haringey.gov.uk)

Wards(s) affected: **All**

Report for: **Non-Key Decision**

1. Purpose of the report (That is, the decision required)

1.1 (a) to approve the report and the Protocol between the London Boroughs of Haringey and Tower Hamlets in relation to cross border working (attached as Appendix 1)

(b) to authorise the Director of Urban Environment to sign the Instrument of Delegation (attached as Appendix 2) on behalf of the Haringey Council.

2. Introduction by Cabinet Member

2.1 This authorisation will enable important intervention work to be undertaken against illegal money lenders and their involvement amongst the most vulnerable in our community. It will allow us to access the funds allocated from Government for the purpose at no cost for ourselves. I support the recommendations detailed in this report.

3. State link(s) with Council Plan Priorities and actions and /or other Strategies:

3.1 There is a link to Priority 5, delivering excellent, customer focused services. This authorisation will enable Haringey to make more effective use of the specialised service provided by the London Borough of Tower Hamlets. That service will be of particular use to vulnerable groups.

4. Recommendations

4.1 (a) that the purposes of this report and the Protocol between the London Boroughs of Haringey and Tower Hamlets in relation to Cross Border Working (attached as Appendix 1) be approved,

(b) that the Director of Urban Environment be authorised to sign the Instrument of Delegation (attached as Appendix 2) on behalf of Haringey Council in order to delegate to the London Borough of Tower Hamlets the enforcement of provisions in the Consumer Credit Act 1974 and powers to prosecute relating to money-lending as described in the above Protocol.

5. Reason for recommendation(s)

5.1 There is considerable concern throughout the country about the activities of illegal moneylenders. Investigating their activities is very specialised and resource-intensive work.

5.2. The Department for Business, Innovation and Skills (formerly the Department for Business, Enterprise and Regulatory Reform) is funding a nationwide network of specialist Illegal Money Lending Teams to deal with this. The London team is operated on the capital's behalf by the London Borough of Tower Hamlets. This team represents an additional resource available to protect consumers in Haringey from illegal moneylenders.

5.3 This team has been operating successfully in a number of Boroughs, but in Haringey their officers do not at present have the authority to exercise the powers under the Consumer Credit Act which would maximise their effectiveness. They currently rely on officers of the London Borough of Haringey being present to exercise those powers and then assist them with the investigations.

5.4 This authority would represent the delegation to the London Borough of Tower Hamlets of the power to investigate offences relating to illegal moneylending and to prosecute those responsible. Officers of Haringey would be consulted before any prosecutions were started. The project is funded until March 2011, and authorisation is sought until that date. The protocol states that the Council has the right to withdraw from the arrangement at any time, although it will only do so if it has good reason.

5.5 If this report is approved it will mean that the additional resources which the government has given to deal with the problem of illegal moneylending can be used to their best advantage.

6. Other options considered

6.1 If there were no change to the current situation there would be additional demands placed on officers from Haringey Trading Standards and Haringey would not get the full benefit of the extra funding.

7. Summary

7.1 Central government has funded a special London-wide enforcement project to combat illegal moneylending. The project is operated on behalf of London by the London Borough of Tower Hamlets. This report seeks to authorise the officers concerned to exercise powers within Haringey under the Consumer Credit Act. This would enable the project to function more efficiently and benefit consumers across London.

8. Chief Financial Officer Comments

8.1 There are no financial implications for the Council.

9. Head of Legal Services' Comments

9.1 This report proposes the formal delegation of Haringey's executive-side functions relating to enforcement against illegal money-lending to the London Borough of Tower Hamlets. Under the Council's Constitution (Part 3, Section D paragraph 1.1(b)) such an arrangement requires the authorisation of the full Cabinet.

9.2 The functions being delegated to London Borough of Tower Hamlets are matters already delegated to officers in Haringey's scheme of delegation. The signing of the Instrument of Delegation would not prevent Haringey's Cabinet or Cabinet Member continuing to have oversight, or the right to call for reports, on the operation of the Protocol relating to enforcement against illegal money-lending. As noted in the report, the Protocol is time limited to the end of March 2011 and there is a right of earlier withdrawal in the event of there being "sound reason" to do so.

10. Equalities & Community Cohesion Comments

10.1 The activities of illegal moneylenders often take place within individual communities and have damaging effects, particularly on vulnerable individuals and the elderly.

11. Consultation

11.1 None has been undertaken.

12. Service Financial Comments

12.1 There are no financial implications for the Council, as the work of the Illegal Moneylending Team is something over and above what the Council already does. In the Protocol, the London Borough of Tower Hamlets specifically indemnifies the Council against any third party claims arising from the exercise of Haringey's powers by officers from Tower Hamlets.

13. Use of appendices /Tables and photographs

13.1 Appendix 1: Protocol between the London Boroughs of Haringey and Tower Hamlets in relation to Cross Border Working

13.2 Appendix 2: Instrument of Delegation

14. Local Government (Access to Information) Act 1985

14.1 There are no background papers.

APPENDIX 1

DEPARTMENT FOR BUSINESS, INNOVATION AND SKILLS ILLEGAL MONEY LENDING PROJECT

PROTOCOL FOR CROSS BORDER WORKING

Interpretation and Definitions

For the purposes of this Protocol –

BIS means the Department for Business, Innovation and Skills

Commencement Date means the date the Delegated Power is granted

Contact Officer means the person named in this document for LBTH and the London Borough of Haringey (HCO), or any other person authorised subsequently by that contact officer.

Delegated Power means the discharge of the function of the Enforcement of Part III of the Consumer Credit Act 1974 [as amended] (as it relates to illegal money lending activities) granted to LBTH by LBH in pursuance of Section 101(1)(b) of the Local Government Act 1972, Section 19 of the Local Government Act 2000 and Regulation 7 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, section 13(7) of the Local Government Act 2000 and any other legislation enabling this discharge

IMLT means the London Illegal Money Lending Team

LBH means the London Borough of Haringey

LBTH means the London Borough of Tower Hamlets

LBTH Trading Standards means Regulatory Services of LBTH

LoTSA means the London Trading Standards Authorities

RIO means the Regional Intelligence Officer

Term means from the date of signing of this protocol until 31 March 2011

1. Application

1.1 This Protocol applies to the BIS 'Illegal Money Lending Project' and covers the following issues:-

- The conduct of investigations and associated working practices by the IMLT's officers when conducting investigations or operating in the London Borough of Haringey.
- The mechanisms whereby the London Borough of Haringey is updated on the progress of the project and any significant issue relating thereto.
- The exchange of intelligence and information between the IMLT and the London Borough of Haringey.
- The institution of legal proceedings.

2. Protocol

2.1 The purpose of this protocol is to facilitate the delegation of powers to the IMLT and officers employed within the IMLT Project to enforce the provisions of the Consumer Credit Act 1974, as they relate to activities connected with illegal money lending, within the area of the London Borough of Haringey. The protocol encourages the exchange of information and a working partnership approach between IMLT and the London Borough of Haringey in relation to this work.

2.2 This Protocol will come into force on the Commencement Date and terminates at the end of the Term.

2.3 Notwithstanding the terms and conditions of this Protocol, this Protocol does not prejudice the right of the London Borough of Haringey to withdraw the delegated power at any time during the Term. However the London Borough of Haringey under takes not to withdraw the delegated power unless it considers there is sound reason to do so.

3. The IMLT

3.1 It is recognised that officers in the IMLT will need authority to initiate and/or undertake investigations and, where necessary, institute legal proceedings where such activity falls within the scope of the 'Illegal Money Lending Project' and where such activity falls entirely outside of the LBTH boundaries. The delegated power is deemed to provide such authority to IMLT and its officers.

3.2 The IMLT will comprise of a team manager and up to 10 staff directly employed by LBTH. The IMLT team manager will be responsible for the day-to-day operation and supervision of the IMLT.

3.3 The IMLT team manager will report directly to the LBTH Head of Trading Standards and Licensing Service for all HR matters and those matters that directly relate to Tower Hamlets, and to the LBTH contact officer for all other IMLT related matters.

- 3.4 The Illegal Money Lending Team Manager will inform the Haringey Contact Officer of any impending investigation to take place within Haringey. The Illegal Money Lending Team Manager will quarterly, from the commencement date, provide a progress report to the London Borough of Haringey contact officer (HCO) giving details of investigations, prosecutions being pursued or concluded and developments concerning or affecting the Illegal Money Lending Project in the London Borough of Haringey.
- 3.5 It is recognised that after delegated power is granted to LBTH all decisions concerning the pursuance of relevant investigations, decisions to prosecute and the laying of charges and/or informations within the London Borough of Haringey, shall be taken by IMLT and in accordance with the LBTH Enforcement Policy and the Haringey Enforcement Policy and the Code for Crown Prosecutors.
- 4 Working Arrangements in the London Borough of Haringey**
- 4.1 The London Borough of Haringey will designate and appoint a Contact Officer (HCO).
- 4.2 The IMLT team manager will brief the HCO on any intelligence gathered, any progress made on investigations and/or prosecutions pending or otherwise, relating to or affecting the London Borough of Haringey and/or its residents.
- 4.3 Further to Clause 4.2 above, all reasonable steps will be taken by the IMLT team manager to keep the HCO updated on the progress of investigations and enquiries being carried out and any changes made or introduced by BIS concerning the 'Illegal Money Lending Project'. It is incumbent on the IMLT team manager to maintain regular dialogue/communication with the HCO.
- 4.4 The IMLT will have regular contact with Police and other Government agencies appropriate to the London Borough of Haringey. The IMLT team manager will consult the HCO to identify any local arrangements, investigations and protocols before any investigation is commenced in pursuance of the 'Illegal Money Lending Project'. Wherever possible, the IMLT team manager will actively involve the HCO and seek to develop close links between those agencies.
- 4.5 The IMLT team manager will as soon as reasonably practicably inform the HCO of the outcome of any concluded legal proceedings concerning offences committed within the London Borough of Haringey.
- 4.6 Haringey Council will co-operate with any press release concerning any proceedings pursued by IMLT pursuant to this Protocol and will consult with the IMLT before issuing any such press release.
- 4.7 Any contact with local government bodies, other police forces, credit unions or similar organisations that may be locally funded or may involve local sensitivities will be agreed with the HCO in advance.
- 4.8 Where the IMLT team manager and the Head of Haringey's Trading Standards Service agree that an officer or officers of the London Borough of Haringey's

Trading Standards Service will be actively involved in an investigation, that officer will remain an employee of the London Borough of Haringey, but for the purpose of that investigation will come under the control of the IMLT team manager. Such agreement will be subject to the IMLT team manager being satisfied that the officer's or officers' participation will not compromise any investigation or endanger any member of the IMLT, supporting staff or witnesses, that the officer has the appropriate training and experience to undertake the task, and upon any other terms that the IMLT team manager and the Head of Haringey's Trading Standards Service consider necessary and/or appropriate.

- 4.9 Unless there is prior agreement with the IMLT team manager for assistance in an investigation, which is accompanied by an official purchase order, no reimbursement will be made for time spent on activities supporting the 'Illegal Money Lending Project' or expenditure incurred by any officer.
- 4.10 The exercise by IMLT of these arrangements shall be at no cost to the London Borough of Haringey and furthermore LBTH undertakes to indemnify the London Borough of Haringey against any claim made against them arising out of the exercise by IMLT of powers granted to them under these arrangements.
- 4.11 LBTH shall have an appropriate contact officer.
- 4.12 In the absence of the IMLT team manager, the role, duties, and responsibilities of the IMLT team manager shall be discharged and carried out by the LBTH contact officers as nominated.

5. Referral of Information/Intelligence to the Project Team

- 5.1 It is recognised that the IMLT will rely on receiving information about Illegal Money Lending activities.
- 5.2 The London Borough of Haringey will endeavour to provide as much relevant information and intelligence as reasonably and practicably possible to the IMLT concerning any investigation being carried out within Haringey, having regard to any statutory limitations/restrictions, the time likely to be expended, resources available and costs likely to be incurred by Haringey in providing the same.
- 5.3 Information and intelligence will be provided by the HCO to the IMLT team manager or a person designated by him/her.
- 5.4 In the London Region the LoTSA RIO is responsible for the collection, collation and dissemination of intelligence for all Trading Standards Departments. Both the IMLT and the London Borough of Haringey will provide the RIO with intelligence regarding IML activities and investigations.
- 5.5 The IMLT will not, as a matter of routine, investigate individual complaints received concerning alleged Illegal Money Lender activities. However, such complaints may be used by the IMLT as a source of intelligence.
- 5.6 LBTH, IMLT and the London Borough of Haringey agree to process personal data in accordance with the requirements of the Data Protection Act 1998 and to

disclose information in accordance with the requirements of the Enterprise Act 2002.

6 Conduct and Control of Investigations

- 6.1 The conduct and control of all investigations undertaken and legal proceedings instigated by the IMLT concerning matters within the London Borough of Haringey will be the responsibility of IMLT. Investigations will be undertaken in line with the LBTH's published Enforcement Policy and the Haringey Enforcement Policy and subject to the policies and procedures approved and adopted by IMLT.
- 6.2 IMLT will be responsible for all aspects of the investigations and responsibilities under the Criminal Procedure and Investigations Act 1996, Regulation of Investigatory Powers Act 2000, the Data Protection Act 1998, the Freedom of Information Act 2000 and the Enterprise Act 2002.
- 6.3 LBTH will be solely responsible for the Health and Safety of IMLT officers and any other officer or person within the direct management of the IMLT providing support and assistance in any operation undertaken by the IMLT.
- 6.4 Where breaches of Part III of the Consumer Credit Act 1974 are identified (as they relate to illegal money lending activities), action will be taken in accordance with the enforcement policy and procedures adopted by IMLT..
- 6.5 Where the IMLT Team Manager recommends legal proceedings relating to matters arising within the London Borough of Haringey if required, the HCO will be provided with a copy of the relevant prosecution file, which will consist of a detailed case summary, schedule of issues, aggravating and mitigating factors, reasons justifying prosecution and any other material fact that the London Borough of Haringey ought reasonably to be aware of. The HCO will be invited to communicate any comments it considers appropriate and necessary concerning the intended proceedings to the IMLT Team Manager who will include them in the case file prior to passing the file over to the IMLT informant. Such comments will be given due attention and consideration by the informant for IMLT.

7. Responsibilities and Actions of the Authorities

- 7.1 LBTH shall be liable for the actions and competence of the persons employed within the IMLT and shall ensure that the IMLT 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.
- 7.2 The London Borough of Haringey shall be liable for the actions and competence of persons within its employ and shall take all reasonable steps to ensure the competence of those persons in carrying out their functions and that they comply with legislative requirements and the spirit of this protocol.
- 7.3 Information / intelligence provided between IMLT and the London Borough of Haringey shall be used for the purpose intended and shall not be divulged to third

parties unless to do so would be lawful and in pursuant of an investigation / enquiry subject to this protocol.

- 7.4 LBTH and the London Borough of Haringey endorse a joined up working approach to the enforcement of the Consumer Credit Act 1974 (as it relates to illegal money lending activities). The partners will attempt to promote consistency in enforcement. However, this protocol does not attempt to restrict the powers of authorised officers of the IMLT or the London Borough of Haringey from discharging their duties, as appropriate.

Commencement date: day of 2009

Signed:

London Borough of Haringey

Signed

Steve Halsey
Director
Communities Localities and Culture Directorate
London Borough of Tower Hamlets

Contact Officer for the London Borough of Tower Hamlets:

Peter Richardson

Contact officer for the London Borough of Haringey:

Paul Boeuf

APPENDIX 2

Local Government Act 1972 Section 101 Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 Regulation 7

Instrument of Delegation of Discharge of Functions to the Executive of another Local Authority

Name of Local Authority Executive delegating the discharge of functions:
London Borough of Haringey

Name of Local Authority Executive taking on responsibility for discharge of functions:
London Borough of Tower Hamlets

Description of functions:

BY THIS INSTRUMENT

(1) The Executive of the London Borough of Haringey, in pursuance of Section 101(1)(b) of the *Local Government Act 1972*, Section 19 of the *Local Government Act 2000* and Regulation 7 of the *Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000* hereby delegates to the Executive of the London Borough of Tower Hamlets:

- (A) The enforcement of Parts III and IV of the *Consumer Credit Act 1974*, and
- (B) The enforcement functions and powers under Parts XI and XII of the *Consumer Credit Act 1974*, and
- (C) The power of prosecution under section 222 of the *Local Government Act 1972*

all in connection with money-lending or the activities of money lenders and/or their agents and associates, and the laundering of the proceeds of illegal money-lending.

(2) The delegated functions shall be discharged in accordance with the attached 'Protocol for Cross Border Working' and shall remain in force until rescinded in writing.

Signed:

Signed:

Printed name: Mr Niall Bolger	Printed name: Mr Steve Halsey
Designation: Director of Urban Environment	Designation: Director, Communities & Culture Directorate
Authority: London Borough of Haringey	Authority: London Borough of Tower Hamlets
Date:	Date: