



LEAD MEMBER FOR ECONOMY

DECISIONS to be made by the Lead Cabinet Member for Economy,
Councillor Rupert Simmons

WEDNESDAY, 15 JULY 2015 AT 10.00 AM

COUNCIL CHAMBER, COUNTY HALL, LEWES

AGENDA

- 1 Decisions made by the Lead Cabinet Member on 7 July 2015 (*To Follow*)
- 2 Disclosure of Interests
Disclosure by all Members present of personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- 3 Urgent items
Notification of any items which the Lead Member considers urgent and proposes to take at the appropriate part of the agenda.
- 4 Illegal Money Lending Team - Authorisation of Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within the East Sussex County Council area (*Pages 3 - 14*)
Report by the Director of Communities, Economy and Transport
- 5 Any urgent items previously notified under agenda item 3

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7 July 2015

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Agenda Item 4

Report to: Lead Cabinet Member for Economy
Date of meeting: 15 July 2015
By: Director of Communities, Economy and Transport
Title: Illegal Money Lending Team – Authorisation for Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within the East Sussex County Council area.
Purpose: To agree that Birmingham City Council may investigate and institute proceedings against illegal money lenders operating within the East Sussex County Council area.

RECOMMENDATIONS: The Lead Member is recommended to:

- (1) delegate the function of enforcement 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) in East Sussex to Birmingham City Council following legislation changes until 31 March 2018;**
 - (2) 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;**
 - (3) Approve the attached “Protocol for Illegal Money Lending Team Investigations”; and**
 - (4) agree to delegate authority to the Head of Communities to enter into the agreement on behalf of East Sussex County Council and approve minor alterations if required.**
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1 Background Information

1.1 The primary legislation governing the consumer credit industry was the Consumer Credit Act 1974. This legislation has now been updated under the Financial Services Act 2012 and is regulated through the Financial Services and Markets Act 2000. The Trading Standards (TS) Service enforces relevant provisions of this legislation in each Local Authority area. The legislation provides that those businesses and individuals engaging in this area should be authorised to conduct business by the Financial Conduct Authority (FCA), previously the Office of Fair Trading. The FCA must be satisfied that an applicant who wishes to be authorised for the purposes of Consumer Credit is a fit and proper person and that the business proposed fits in with operating criteria agreed by the FCA.

1.2 To operate a consumer credit business without authorisation is a criminal offence and carries a maximum penalty of £5,000 and/or up to two years imprisonment. Illegal money lending covers a range of activities, from persons that are actually authorised but are acting unlawfully, to the extreme of a person offering cash loans without being authorised at all (Loan Sharks). Loan Shark activity is characterised by deliberate criminal fraud and theft, with extortionate rates of interest on loans that mean borrowers face demands for payment of thousands of pounds more than they borrowed and can often never pay off the loans. Borrowers who fail to pay or refuse to pay can be subject to intimidation, theft, forced prostitution and extreme physical violence.

1.3 An Illegal Money Lending Team (IMLT) was established within Birmingham Trading Standards as a pilot project in England, one of only two in Great Britain; the other pilot area being Glasgow – covering Scotland. The remit of the team is to investigate illegal money lending activity, establish if a problem exists and, if so, bring to justice those persons carrying on this activity. The team is made up of highly experienced investigators with a broad range of backgrounds and investigative skills.

1.4 East Sussex TS has worked with the Illegal Money Lending Team (based in Birmingham City Council) since its inception. The benefit that this team can bring to East Sussex is significant. East Sussex County Council TS, 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 those who do not comply

with the law. This partnership is set up at no cost to East Sussex, including any costs of investigation and enforcement.

1.5 This report requires the agreement of the Lead Member for Economy for the IMLT to continue working in the East Sussex area following legislation changes. Our previous protocol with the IMLT came to an end on 31 March 2015. The new Consumer Rights Act comes into force in October 2015; however the prosecution of an illegal money lender may involve other criminality including blackmail and fraud.

2 Supporting Information

2.1 In order to continue the scheme in East Sussex, Birmingham City Council requires formal delegation of functions to carry out the investigations under the Act and to prosecute any matters in the area.

2.2 It is proposed that this delegation will continue until 31 March 2018 with a view to extending the arrangement if successful.

2.3 In order to ensure clarity in respect of the operation of these arrangements, the draft protocol in Appendix 1 sets out the processes and practices to enable Birmingham City Council and its officers to undertake investigations and legal procedures. Further detail on the proposal can be found in Appendix 2.

2.4 This delegation does not prevent East Sussex Trading Standards from undertaking the function.

3 Conclusion and Reason for Recommendations

3.1 This proposal, if agreed, will add to the County Council's resources and will enable the County Council's TS to have access to a team of highly trained experts from the IMLT.

3.2 This area of law enforcement requires specialist resource, expertise, techniques and facilities which the County Council's TS would not otherwise have access to. Members of the IMLT include officers with high-level training and expertise in surveillance techniques as well as security operations. The team includes, amongst others, ex-police officers and security services personnel.

3.3 The recommendations will support performance of the County Council's duty in relation to enforcement of the provisions of the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000.

3.4 It is recommended that the Lead Member agree that the discharge of the County Council's function of the enforcement of the Financial Services and Markets Act 2000, Part III of the Consumer Credit Act 1974 be carried out by Birmingham City Council (pursuant to Section 101 of the Local Government Act 1972, Regulation 7 of the Local Authority (Arrangements for Discharge of Functions) (England) Regulations 2012 and Section 13 and 19 of the Local Government Act 2000), and section 222 of the The Local Government Act 1972.

3.5 It is also recommended that the Lead Member agree the attached "Protocol for Illegal Money Lending Team Investigations" in Appendix 1 and authority be delegated to the Head of Communities to enter into the agreement on behalf of East Sussex County Council and approve minor alterations if required.

RUPERT CLUBB

Director of Communities, Economy and Transport

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LOCAL MEMBERS

All

BACKGROUND DOCUMENTS

None

APPENDIX 1

DEPARTMENT FOR BUSINESS INNOVATION AND SKILLS (BIS) ENGLAND ILLEGAL MONEY LENDING PROJECT

PROTOCOL FOR ENGLAND ILLEGAL MONEY LENDING SECTION INVESTIGATIONS

DATED _____ 2015

- Interpretation

For the purposes of this Protocol –

“**BCC**” means Birmingham City Council

“**ESCC**” means East Sussex County Council

“**IMLS**” means the Illegal Money Lending Section

“**Delegated Power**” means the discharge of the function of the Enforcement of Part III of the Consumer Credit Act 1974, the enabling provisions within the Financial Services Act 2012 in respect of matters concerned with the Financial Services and Markets Act 2000 granted to BCC by ESCC in pursuance of section 101 and 222 of the Local Government Act 1972, Regulation 7 of the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2012, sections 13 to 19 of the Local Government Act 2000 and any other legislation enabling the discharge

“**Commencement Date**” means the date of this Protocol

“**Term**” means from the period from the Commencement Date to 31 March 2018

“**Birmingham Trading Standards**” means Regulatory Services of BCC

“**East Sussex County Council Contact Officer (ESCCCO)**” means the relevant person appointed by the Head of Communities (Trading Standards) of ESCC to liaise with the Head of Illegal Money Lending Section on matters relating to and in connection with the Illegal Money Lending Project

“**Appropriate Contact Officer**” means The Director of Regulation and Enforcement or the Head of Illegal Money Lending of Birmingham Regulation and Enforcement or any person nominated by the Council or authorised by them

1. Application

1.1 This Protocol applies to the DBIS / NTSB / HM Treasury funded ‘Illegal Money Lending Project’ and covers the following issues:-

- The conduct of investigations and associated working practices for the IMLS officers when conducting investigations or operating in East Sussex.
- The mechanisms whereby ESCC is updated on the progress of the project and any significant issue relating thereto.
- The exchange of intelligence and information between the IMLS and ESCC
- The institution of legal proceedings.

2. Protocol

- 2.1 The purpose of this protocol is to facilitate the delegation of powers to BCC and officers employed within BCC's IMLS to enforce the provisions of the Consumer Credit Act 1974, to include matters in respect of the Financial Services and Markets Act 2000 within the area of East Sussex. The protocol encourages the exchange of information and a working partnership approach between BCC and ESCC in relation to the Consumer Credit Act 1974.
- 2.2 This Protocol will come into force on the Commencement Date and shall continue until expiry of the Term.
- 2.3 Notwithstanding the terms and conditions of this Protocol, this Protocol does not prejudice the right of ESCC to withdraw the Delegated Power at any time during the Term. However ESCC undertakes not to withdraw the Delegated Power unless it considers there is good reason to do so. The Delegated Power is not to be unreasonably withdrawn by ESCC.

3. The IMLS

- 3.1 It is recognised that officers in the IMLS will need authority to initiate and/or undertake investigations and/or the prosecution of potential offences falling within the scope of the 'Illegal Money Lending Project' where such potential offences fall entirely outside of the BCC boundaries. This protocol and also the Delegated Power is deemed to provide such authority to BCC and its officers regarding all matters.
- 3.2 The IMLS will comprise of a Head of Service and up to 55 staff directly employed by BCC. The Head of Illegal Money Lending Section will be responsible for the day-to-day operation and supervision of the IMLS.
- 3.3 The Head of Illegal Money Lending Section will report directly to the Director of Regulation and Enforcement or nominated officer as appropriate.
- 3.4 The Head of the Illegal Money Lending Section in BCC will, when required, provide progress reports, from the Commencement Date, to the Head of Communities (Trading Standards) of ESCC giving details of investigations, (unless there is a significant risk that any such disclosure may jeopardise an investigation, such a decision is within the discretion of the Director of Regulation and Enforcement or Head of Communities (Trading Standards) in BCC) prosecutions being pursued or concluded and developments concerning or affecting the Illegal Money Lending Project in ESCC.
- 3.5 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 East Sussex, shall be taken by BCC and in accordance with the relevant Code for Crown Prosecutors and BCC's Enforcement Policy.

4. Working Arrangements in the Template Council Area

- 4.1 ESCC will designate and appoint an East Sussex County Council Contact Officer (ESCCCO).
- 4.2 The Head of Illegal Money Lending Section will at any time the Head of Illegal Money Lending Section considers necessary and prudent, or at the request of the ESCCCO, brief the ESCCCO on any intelligence gathered, any progress made on investigations and/or

prosecutions pending or otherwise, relating to or affecting East Sussex and/or its residents.

- 4.3 Further to Clause 4.2 above, all reasonable steps will be taken by the Head of Illegal Money Lending Section to keep the ESCCCO updated on the progress of investigations and enquiries being carried out in East Sussex and any changes made or introduced by Government concerning the 'Illegal Money Lending Project'. It is incumbent on the Head of Illegal Money Lending Section to maintain regular dialogue/communication with the ESCCCO.
- 4.4 The IMLS will have regular contact with the Police and other Government agencies. The Head of Illegal Money Lending Section will consult the ESCCCO to identify any local arrangements, investigations and protocols before any investigation is commenced in pursuance of the 'Illegal Money Lending Project'. Wherever possible, the Head of Illegal Money Lending Section will actively involve the ESCCCO and seek to develop close links between those agencies and BCC.
- 4.5 The Head of Illegal Money Lending Section will as soon as reasonably practicably inform the ESCCCO of the outcome of any concluded prosecution proceedings conducted within East Sussex.
- 4.6 BCC, where possible, will consult with ESCC in good time before issuing any press release concerning any prosecution pursued by BCC pursuant to this Protocol.
- 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 ESCCCO in advance. Upon being notified of an intention to contact such a body, East Sussex County Council Trading Standards may arrange for one of their own officers to accompany the relevant officer of the IMLS on any visit.
- 4.8 Where the Head of Illegal Money Lending Section and the Head of Communities (Trading Standards) of ESCC agree that an officer or officers of ESCC Trading Standards will be actively involved in an investigation, that officer will remain an employee of ESCC but for the purpose of that investigation, will come under the control of the IMLS team manager. Such agreement will be subject to the Head of Illegal Money Lending Section 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 Head of Illegal Money Lending Section and the Head of Communities (Trading Standards) of East Sussex County Council consider necessary and/or appropriate.
- 4.9 Unless there is prior agreement with the Head of Illegal Money Lending Section for assistance in an investigation, which is accompanied by an official purchase order from BCC, no reimbursement will be made for time spent on activities supporting the 'Illegal Money Lending Project' or expenditure incurred by any ESCC officer.
- 4.10 The exercise by BCC of these arrangements shall be at no cost to ESCC
- 4.11 BCC shall have an Appropriate Contact Officer.
- 4.12 In the absence of the IMLS Head of Service, the role, duties, and responsibilities of the Head of Illegal Money Lending Section shall be discharged and carried out by the other Appropriate Contact Officers as nominated.

5. Referral of Information/Intelligence to the Project Team

- 5.1 It is recognised that the IMLS will rely on receiving information about Illegal Money Lender activities from ESCC. Information received about illegal money lending activity may be received from a variety of sources. There is a reporting mechanism for the public using stoploansharks@eastsussex.gov.uk. Alternatively reports of illegal money lending activity may come from partner agencies such as Sussex Police or Adult Social Care.
- 5.2 ESCC will endeavour to provide as much relevant information and intelligence as reasonably and practicably possible to the IMLS concerning any investigation being carried out within East Sussex having regard to any statutory limitations/restrictions.
- 5.3 Information and intelligence will be provided by the ESCCCO to the Head of Illegal Money Lending Section or a person designated by him/her.
- 5.4 BCC IMLS 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 IMLS as a source of intelligence.
- 5.5 BCC, IMLS and ESCC agree to process personal data only in accordance with the requirements of the Data Protection Act 1998 and to disclose information only 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 prosecutions by the IMLS in East Sussex will be the responsibility of BCC. Investigations will be undertaken in line with the BCC's published Enforcement Policy and subject to the policies and procedures approved and adopted by Birmingham Trading Standards.
- 6.2 BCC 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. If Freedom of Information Act requests are received concerning the activities of the IMLS then the requester would be advised that ESCC does not hold this information. They would be advised to redirect their enquiry to the IMLS who conduct this work for ESCC.
- 6.3 BCC will be solely responsible for the Health and Safety of IMLS officers and any other officer or person within the direct management of the IMLS providing support and assistance in any investigation undertaken by the IMLT.
- 6.4 Where breaches of Part III of the Consumer Credit Act 1974 are identified, action will be taken in accordance with the enforcement policy and procedures adopted by Birmingham Trading Standards.
- 6.5 When the Head of Illegal Money Lending Service, recommends a prosecution under Part III of the Consumer Credit Act 1974, if required, ESCC 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 ESCC ought reasonably to be aware of. ESCC will be invited to communicate any comments it considers appropriate and necessary concerning the intended prosecution to the Director of Regulation and Enforcement, the informant for BCC. Such comments will be given due attention and consideration by the informant for BCC.

7. Responsibilities and Actions of the Authorities

- 7.1 BCC shall be liable for the actions and competence of the persons employed within the IMLS and shall ensure that the IMLS shall comply with all legislative requirements and take all reasonable steps to ensure any actions taken are lawful and within the spirit of this Protocol.
- 7.2 ESCC 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 BCC and ESCC 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 BCC and ESCC endorse a joined up working approach to the enforcement of the Consumer Credit Act 1974. The partners will attempt to promote consistency in enforcement. However, this Protocol does not attempt to restrict the powers of authorised officers of the IMLS or BCC from discharging their duties, as appropriate.

Signed

East Sussex County Council

Signed

Jacqui Kennedy
Director of Regulation and Enforcement
Birmingham City Council.

1. Background

- 1.1 The primary legislation governing the consumer credit industry was the Consumer Credit Act 1974. This legislation has now been updated under the Financial Services Act 2012 and is regulated through the Financial Services and Markets Act 2000. The Trading Standards Service enforces relevant provisions of this market in each Local Authority area. The legislation provides that those businesses and individuals engaging in this area should be authorised to conduct business by the Financial Conduct Authority (FCA) (previously the Office of Fair Trading (OFT)). The FCA must be satisfied that an applicant who wishes to be authorised for the purposes of Consumer Credit is a fit and proper person and that the business proposed fits in with operating criteria agreed by the FCA.
- 1.2 To operate a consumer credit business without authorisation is a criminal offence and carries a maximum penalty of £5,000 and/or up to two years imprisonment. Authorisation can be revoked where it can be established that the authorised business has acted inappropriately. Warnings and conditions, fines and suspension can be issued where necessary. Illegal money lending covers a range of activities, from persons that are actually authorised but are acting unlawfully, to the extreme of a person offering cash loans without being authorised at all (Loan Sharks). Loan Shark activity is characterised by deliberate criminal fraud and theft, with extortionate rates of interest on loans that mean borrowers face demands for payment of thousands of pounds more than they borrowed and can often never pay off the loans. Borrowers who fail to pay or refuse to pay are subject to intimidation, theft, forced prostitution and other, extreme physical violence.
- 1.3 An Illegal Money Lending Team was established within Birmingham Trading Standards as a pilot project in England, one of only two in Great Britain; the other pilot area being Glasgow – covering Scotland. The remit of the team is to investigate illegal money lending activity, establish if a problem exists and, if so, bring to justice those persons carrying on this activity. The team is made up of highly experienced investigators with a broad range of backgrounds and investigative skills.
- 1.4 The scheme, initially working across the midlands, has now been extended to cover the whole of England.
- 1.5 Research, funded by the Department of Business Innovation and Skills (BIS) and using information gathered by the Birmingham pilot project, has been published which identifies the extent of this type of activity as well as the reasons that people use illegal money lenders. Funding for the project is provided from the Financial Inclusion Fund administered by the Treasury and managed by the BIS. The Treasury and BIS announced that due to the success of the Birmingham team that funding will continue and can be used to roll the project.
- 1.6 In 2010 it was estimated that 310,000 households were using illegal lenders. Using this figure it is estimated that £750m is paid to illegal lenders each year by vulnerable communities and individuals.
- 1.7 The England team is hosted by Birmingham City Council and will continue to provide a resource to investigate illegal money lending across England.
- 1.8 The team whose office is based in Birmingham continues to operate the “parachute in and out model”, with a local presence through regional officers

- 1.9 The benefit that this team can bring to East Sussex is significant. East Sussex County Council Trading Standards, 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.

2. Key Statistics

- 2.1 Key statistics for the project up to November 2014:

Written off over £60 million of illegal debts (money victims would have paid back to illegal lenders if the Department had not acted)

secured over 321 prosecutions, resulting in prison sentencing totalling over 200 years and one indefinite helped over 25,000 victims of loan sharks including the most hard to reach individuals

- 2.2 In addition to exceeding the expectations of the Government the project has also achieved significant added value, including partnership working with the Police, the Department of Work and Pensions, Post Office Counter Fraud Unit, H M Revenue and Customs to facilitate a coordinated approach to tackling crime and disorder.

3. Objectives of the Project

- 3.1 **Objective 1 - To obtain a clear understanding of the scale and impact of illegal money lending as well as learning lessons on the best way to enforce.**

- 3.1.1 The evidence so far indicates that illegal moneylenders are widespread and prevalent. They operate in areas that have a high proportion of rented accommodation and target the most vulnerable members of society. High rise flats are common premises targeted by loan sharks as legitimate lenders do not lend to people residing in this type of accommodation due to the health and safety risks for their collectors.

- 3.1.2 Evidence shows illegal moneylenders vary from those who lend £10 over a few days and demand £12 on repayment, to those who provide substantial loans to those looking to set up businesses. Interest rates of 100% are common and APR's have been in the region of over 100,000% in some instances.

- 3.1.3 Information gathered so far suggests that illegal money lending is being operated across all sectors of the community. The majority of people using moneylenders are in receipt of income support or benefits and are introduced through word of mouth. However evidence also suggests that money lenders operate within the wider community and the pilot has identified illegal money lending within the business community. In many of the investigations it has been established that the moneylenders resort to intimidation and violence in order to secure payment. Other common traits include: adding indiscriminate charges, targeting single mothers and introducing payment through sexual favours.

- 3.1.4 Moneylenders often use victims of money lending to assist them with maintaining their criminal lifestyle and anonymity, for example illegal money lenders' vehicles are often registered at a clients' address.

- 3.1.5 There is also anecdotal evidence which suggests that illegal moneylenders have an impact on the wider community in which they operate, with victims resorting to petty crime to enable them to meet payments. Reducing the activities of illegal moneylenders or removing them altogether may therefore help to reduce levels of other criminal activity

within a community.

3.1.6 With regard to enforcement activity the investigation of illegal money lending has proven to be very resource intensive. Target individuals need to be observed and monitored to determine their activity, to identify them and if possible establish their address. A significant proportion of targets are also what are termed “life style criminals”, which means that evidence of other illegal activity can surface during the course of an investigation. This may not only involve other agencies but can also extend the life of an investigation, thereby adding to the pressure on resources.

3.2 **Objective 2 - To create a climate where victims can come forward – confident that prosecutions will be undertaken, and convictions obtained, without fear of reprisals.**

3.2.1 Effective branding and publicity of the pilot project has meant extensive promotion of the aims of the project and work of the team, within both the local and wider community. Evidence suggests that this has been achieved because it can be evidenced that victims are willing to contact the hotlines, and to provide further evidence to help achieve prosecutions. This will be established in North Yorkshire.

3.3 **Objective 3 – To change the perception amongst those lending that illegal money lending is rarely prosecuted.**

3.3.1 A proactive media campaign is ongoing in those areas that have successfully targeted criminals. Engaging the media promotes the work of the team and raises public awareness.

3.4 **Objective 4 – To develop ways of replacing the removed lenders with more support for their victims.**

3.4.1 The Illegal Money Lending Team will help victims of illegal moneylenders with practical help and support through and in conjunction with the services of local Debt Advice Teams and the Money Advice Service. It has been noted that victims often need more than simple money advice and so face-to-face advice is considered the most helpful way forward and is the route normally adopted.

3.4.2 Links are also established with credit unions and their associations and where practicable these agencies are also called upon to provide help and advice. The Illegal Money Lending Team offers money management to all victims of moneylenders who contact them for advice and assistance. Partnership working in this area is recognised as being essential in this area of service provision. This will be the key role of the ‘Financial Inclusions Partnership Officer’

3.4.3 The County Council’s vision of providing a credit union partnership may be able to play a role in this area. Indeed these two initiatives very much share similar objectives.

4. Delegation

4.1 In order to expand the scheme into East Sussex, Birmingham City Council requires formal delegation of functions to carry out the investigations etc under the Act and to prosecute any matters in the area.

4.2 It is proposed that the delegation will continue until 31st March 2018 with a view to

extending the arrangement if successful.

4.3 In order to ensure clarity in respect of the operation of these arrangements, the attached draft protocol sets out the processes and practices to enable Birmingham City Council and its officer to undertake investigations and legal procedures.

4.4 This delegation does not prevent East Sussex Trading Standards from undertaking the function.

5. Resource Implications

5.1.1 There are no financial implications for East Sussex County Council as a result of this proposal. All major costs will be funded by the Treasury. Incidental costs in providing a work base for officers operating in East Sussex will be contained within the Trading Standards budget.

6. Legal Considerations

6.1 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 the Act within their local authority boundary and now, with the introduction of the Financial Services Act 2012, the Financial Services and Markets Act 2000. This is an executive function for the purposes of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and therefore it is necessary for Cabinet as the executive to formally delegate this function to Birmingham City Council under Section 13 to 19 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Birmingham City Council is also required to formally accept the delegation.

6.2 Any prosecutions will be undertaken by Birmingham City Council with no liability for costs to East Sussex County Council.

7. Section 17 – Crime and Disorder Act

7.1 Illegal moneylenders invariably target low-income households and the most vulnerable members of society. This can mean that their activities have disproportionate implications for the more deprived areas and action taken against them therefore supports the policy priorities associated with crime and disorder and protecting the more vulnerable members of the community.

7.2 Illegal money lending has a serious detrimental effect on both individuals and the community. Tackling the root causes and providing legitimate alternative sources of credit will contribute to reducing stress and pressures on many individuals and communities.

7.3 Marginalising rogue traders creates an environment which supports and encourages legitimate credit providers and reduces the fear of crime.

8. Equal Opportunities

8.1 It is often the poorer and more vulnerable members of society who become victims of illegal moneylenders and find it difficult to access appropriate support and help.

9. Risk Implications/Assessment

- 9.1 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.

10. Alternative Options

- 10.1 There are no other viable options as the funding is provided on the basis of expanding the Birmingham team.

11. Conclusion

- 11.1 This proposal, if agreed, will add to the County Council's resources and will enable East Sussex Trading Standards to have access to a team of highly trained experts from the IMLT.
- 11.2 This area of law enforcement requires specialist resource, expertise, techniques and facilities which East Sussex Trading Standards would not otherwise have access to. Members of the IMLT include officers with high-level training and expertise in surveillance techniques as well as security operations. The team includes, amongst others, ex police officers and security services personnel.
- 11.3 The recommendations will support performance of the Authority's duty in relation to enforcement of the provisions of the Consumer Credit Act 1974 and the Financial Services and markets Act 2000.

12. Recommendations

- 12.1 That the Executive agree that the discharge of its function of the enforcement of the Financial Services and markets Act 2000, Part III of the Consumer Credit Act 1974 be carried out in by Birmingham City Council (pursuant to Section 101 of the Local Government Act 1972, Regulation 7 of the Local Authority (Arrangements for Discharge of Functions) (England) Regulations 2012 and Section 13 and 19 of the Local Government Act 2000). The Local Government Act 1972 section 222.
- 12.2 That the attached "Protocol for Illegal Money Lending Team Investigations" be agreed and authority be delegated to the Head of Communities (Trading Standards) to enter into the agreement on behalf of East Sussex County Council and approve minor alterations if required.