

APPENDIX 1

DEPARTMENT FOR BUSINESS ENTERPRISE & REGULATORY REFORM
ILLEGAL MONEY LENDING PROJECT

Protocol for Illegal Money Lending Team Investigations

Interpretation

For the purposes of this Protocol –

“**CCC**” means Cardiff County Council.

“**BTS**” means Bridgend County Borough Council Trading Standards.

“**WIMLU**” means the Wales Illegal Money Lending Unit.

“**Delegated Power**” means the discharge of the function of the Enforcement of Part III of the Consumer Credit Act 1974 granted to CCC by BTS in pursuance of Section 101 of the Local Government Act 1972, Regulation 7 of the Local Authorities (Executive arrangements) (Arrangements for Discharge of Functions) (Wales) Regulations 2002, Section 13(7) of the Local Government Act 2000 and any other legislation enabling this discharge.

“**Commencement Date**” means the date the Delegated Power is granted.

“**Term**” means from the date of signing of this protocol to 31 March 2011.

“**Cardiff Trading Standards**” means the Trading Standards service of CCC.

“**Bridgend Contact Officer (BCO)**” means the relevant person appointed by the Group Manager Trading Standards of BTS to liaise with the WIMLU team manager on matters relating to and in connection with the Illegal Money Lending Project.

“**DBERR**” means Department for Business, Enterprise and Regulatory Reform

Commencement date:

Signed:

Dave Holland
Head of Trading Standards
Cardiff County Council Trading Standards

Signed:

P. A. Jolley
Assistant Chief Executive Legal & Regulatory Services
Bridgend County Borough Council

1. Application

1.1 This Protocol applies to the DBERR/HM Treasury funded 'Illegal Money Lending Project' and covers:

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

2. Protocol

2.1 The purpose of this protocol is to facilitate the delegation of powers to officers employed within WIMLU to enforce the provisions of the Consumer Credit Act 1974 within the County Borough of Bridgend. The protocol encourages the exchange of information and a working partnership approach between CCC and BTS in relation to the Consumer Credit Act 1974.

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 BTS to withdraw the delegated power at any time during the Term. However, BTS 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 BTS.

3. The WIMLU

3.1 It is recognised that officers in the WIMLU 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 CCC boundaries. The delegated power is deemed to provide such authority.

3.2 The WIMLU comprises staff directly employed by CCC. The WIMLU team manager will be responsible for the day-to-day operation and supervision of the WIMLU.

3.3 The WIMLU team manager will report directly to an Operational Manager within CCC Trading Standards.

- 3.4 The WIMLU will provide a progress report to the Group Manager of Bridgend Trading Standards giving details of investigations, prosecutions being pursued or concluded and developments concerning or affecting the Illegal Money Lending Project the Bridgend County Borough, *(unless there is a significant risk that any such disclosure may jeopardise an investigation, such a decision is within the discretion of the Operational Manager (Consumer Protection) (CCC).*
- 3.5 It is recognised that after delegated power is granted to CCC, all decisions concerning the pursuance of relevant investigations, decisions to prosecute and the laying of charges and/or information on such relevant matters within the Bridgend County Borough, shall be taken by CCC and in accordance with the relevant Code for Crown Prosecutors and CCC's Enforcement Policy. However, CCC will consult with the BTS before any charges and/or informations are preferred unless it is not practicable to do so.

4 Working Arrangements in the Bridgend County Borough Council Area

- 4.1 BTS will designate and appoint a Bridgend Contact Officer (BCO).
- 4.2 The WIMLU team manager will periodically brief the BCO on any intelligence gathered, any progress made on investigations and/or prosecutions pending or otherwise, relating to or affecting Bridgend and/or its residents. This includes progress of investigations and enquiries being carried out in the Bridgend County Borough and any changes made or introduced by the Department for BERR concerning the 'Illegal Money Lending Project'.
- 4.3 The WIMLU will have regular contact with South Wales Police and other Government agencies. The WIMLU team manager will consult the BCO to identify any local arrangements, investigations and protocols before any investigation is commenced in pursuance of the 'Illegal Money Lending Project'. Wherever possible, the WIMLU team manager will actively involve the BCO and seek to develop close links between those agencies and BTS.
- 4.4 The WIMLU team manager will, as soon as reasonably practicable, inform the BCO the outcome of any concluded prosecution proceedings conducted within Bridgend County Borough Council.
- 4.5 CCC will consult with BTS before issuing any press release concerning any prosecution pursued by CCC pursuant to this Protocol.
- 4.6 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 BCO in advance.
- 4.7 Where the WIMLU team manager and the Group Manager of Bridgend Trading Standards agree that an officer or officers of Bridgend Trading Standards will be actively involved in an investigation, that officer will remain an employee of BTS but for the purpose of that investigation, will come under the control of the WIMLU team manager. Such agreement will be subject to the WIMLU team manager being satisfied that the officer's or officers' participation will not compromise any investigation or endanger any member of the WIMLU, supporting staff or witnesses, that the officer has the appropriate training and experience to undertake the task; and upon any other terms that the WIMLU

team manager and the Group Manager of Bridgend Trading Standards consider necessary and/or appropriate.

- 4.8 Unless there is prior agreement with the WIMLU team manager for assistance in an investigation, which is accompanied by an official purchase order from CCC, no reimbursement will be made for time spent on activities supporting the 'Illegal Money Lending Project' or expenditure incurred by any BTS officer.
- 4.9 The exercise by CCC of these arrangements shall be at no cost to BCC and furthermore CCC undertakes to indemnify BTS against any claim made against BTS arising out of the exercise by CCC of powers granted to them under these arrangements.
- 4.10 In the absence of the WIMLU team manager, the role, duties, and responsibilities of the WIMLU team manager shall be discharged and carried out by the Deputy Team Manager.

5. Referral of Information/Intelligence to the Project Team

- 5.1 The WIMLU will rely on BTS and other agencies in Newport to provide information about Illegal Money Lender activities.
- 5.2 BTS will endeavour to provide as much relevant information and intelligence as reasonably and practicably possible to the WIMLU concerning any investigation being carried out within the Bridgend County Borough, having regard to any statutory limitations/restrictions, the time likely to be expended, resources available and costs likely to be incurred by BTS in providing the same.
- 5.3 Information and intelligence will be provided by the BCO to the WIMLU team manager or a person designated by him/her.
- 5.4 WIMLU 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 WIMLU as a source of intelligence.
- 5.5 WIMLU and BTS agree to process personal data only 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 prosecutions by the WIMLU in Bridgend will be the responsibility of CCC. Investigations will be undertaken in line with the CCC's published Enforcement Policy and subject to the policies and procedures approved and adopted by Cardiff Trading Standards.
- 6.2 CCC 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 CCC will be solely responsible for the Health and Safety of WIMLU officers and any other officer or person within the direct management of the WIMLU providing support and assistance in any investigation undertaken by the WIMLU.
- 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 Cardiff Trading Standards.
- 6.5 When the Team Manager, WIMLU CCC, recommends a prosecution under Part III of the Consumer Credit Act 1974, if required, BTS will be provided with a copy of the relevant prosecution file, and any other material fact that BTS ought reasonably to be aware of. BTS will be invited to communicate any comments it considers appropriate and necessary concerning the intended prosecution to the Operational Manager (Consumer Protection), the informant for CCC. Such comments will be given due attention and consideration by the informant for CCC.

7. Responsibilities and Actions of the Authorities

- 7.1 CCC shall be liable for the actions and competence of the persons employed within the WIMLU and shall ensure that the WIMLU 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 BTS 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 CCC and BTS 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 CCC and BTS 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 WIMLU or BTS from discharging their duties, as appropriate.