



**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

“**CCBC**” means Caerphilly county borough Council

“**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 CCBC in pursuance of section 101 of the Local Government Act 1972, Regulation 7 of the Local Authorities (Executive Arrangements) (Discharge of Functions) (Wales) Regulations 2002 as amended, sections 13(7) and 19 of the Local Government Act 2000 and any other legislation enabling this discharge

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

“**Term**” means from the Commencement Date to 31<sup>st</sup> March 2011

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

“**CCBC Trading Standards**” means the Trading Standards service of CCBC

“**Caerphilly Contact Officer (CCBCCO)**” means the relevant person appointed by the Trading Standards & Licensing Manager of Caerphilly county borough Council to liaise with the WIMLU team manager on matters relating to and in connection with the Illegal Money Lending Project

Commencement date:

Signed

Dave Holland  
Head of Trading Standards  
Cardiff County Council Trading Standards

Signed

Jacqui Morgan  
Trading Standards & Licensing Manager  
Caerphilly 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 Caerphilly county borough.
- The mechanisms whereby CCBC Trading Standards is updated on the progress of the project and any significant issue relating thereto.
- The exchange of intelligence and information between the WIMLU and CCBC Trading Standards.
- The institution of legal proceedings.

## **2. Protocol**

2.1 The purpose of this protocol is to facilitate the delegation of powers to officers employed by CCC within WIMLU to enforce the provisions of the Consumer Credit Act 1974 in relation to illegal money lending activities known as "loan shark" activities within the area of Caerphilly county borough. The protocol encourages the exchange of information and a working partnership approach between CCC and CCBC Trading Standards in relation to the Consumer Credit Act 1974. However for the avoidance of doubt nothing in this Protocol or delegation shall exclude the continuation of the exercise of these enforcement powers by CCBC Trading Standards.

2.2 This Protocol will come into force on the Commencement Date and terminates at the end of the Term or earlier termination in accordance with Clause 2.3.

2.3 Notwithstanding the terms and conditions of this Protocol, this Protocol does not prejudice the right of CCBC to withdraw the Delegated Power at any time during the Term. However CCBC 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 CCBC.

## **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 Trading Standards & Licensing Manager of Caerphilly county borough Council giving details of investigations, prosecutions being pursued or concluded and developments concerning or affecting the Illegal Money Lending Project in Caerphilly 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 Caerphilly 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 CCBC Trading Standards before any charges and/or informations are preferred unless it is not practicable to do so.

#### **4 Working Arrangements in the Caerphilly county borough Council Area**

- 4.1 CCBC will designate and appoint a Caerphilly county borough Contact Officer ( (CCBCCO).
- 4.2 The WIMLU team manager will periodically brief the CCBCCO on any intelligence gathered, any progress made on investigations and/or prosecutions pending or otherwise, relating to or affecting Caerphilly county borough and/or its residents. This includes progress of investigations and enquiries being carried out in Caerphilly 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 CCBCCO 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 CCBCCO and seek to develop close links between those agencies and CCBC Trading Standards.
- 4.4 The WIMLU team manager will as soon as reasonably practicably inform the CCBCCO the outcome of any concluded prosecution proceedings conducted within Caerphilly county borough.
- 4.5 CCC will consult with CCCBC Trading Standards before issuing any press release concerning any prosecution pursued by CCC pursuant to this Protocol.
- 4.6 Where an investigation may involve local sensitivities, contact and consultation protocols will be agreed with the CCBCCO in advance.
- 4.7 Where the WIMLU Team Manager and Trading Standards & Licensing Manager of Caerphilly county borough Council agree that an officer or officers of Caerphilly county borough Trading Standards will be actively involved in an investigation, that officer will be directed to provide the WIMLU Team Manager with full assistance. Such agreement will be subject to the WIMLU Team Manager being satisfied that the officer 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 Trading Standards & Licensing Manager of Caerphilly county borough Council consider necessary and/or appropriate.
- 4.8 Unless there is prior agreement with the Wales Illegal Moneylending Unit for assistance in an investigation, accompanied by an official purchase order from Cardiff County Council, no reimbursement will be made for any expenditure incurred by any officer from CCCBC.
- 4.9 The exercise by CCC of these arrangements shall be at no cost to CCBC and furthermore CCC undertakes to indemnify CCBC against any claim made against CCBC 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 CCBC Trading Standards and other agencies in Caerphilly county borough to provide information about Illegal Money Lender activities.
- 5.2 CCBC Trading Standards 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 Caerphilly county borough, having regard to any statutory limitations/restrictions, the time likely to be expended, resources available and costs likely to be incurred by CCBC Trading Standards in providing the same.
- 5.3 Information and intelligence will be provided by the CCBCCO 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 CCBC 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 Caerphilly county borough 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 and in accordance with all relevant legislation and guidance.
- 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 and relevant legislation and guidance.
- 6.5 When CCC recommends a prosecution under Part III of the Consumer Credit Act 1974, if required, CCBC Trading Standards will be provided with a copy of the relevant prosecution file, and any other material fact about which CCBC Trading Standards ought reasonably to be aware. CCBC Trading Standards 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 CCBC 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 CCBC 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 CCBC 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 CCBC from discharging their duties, as appropriate.