



Cabinet
12 March 2018

**Report from the Strategic Director
of Regeneration and Environment**

**Authority to Tender for Enforcement Agents for the
Recovery of Parking and Traffic Related Debts**

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt:	Open
No. of Appendices:	None
Background Papers:	None
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1.0 Purpose of the Report

- 1.1 This report seeks approval to invite tenders for Enforcement Agents to collect debts arising from parking and traffic Penalty Charge Notices (PCNs), as required by Contract Standing Orders 88 and 89.

2.0 Recommendation

That Cabinet:

- 2.1 Approves the invitation of tenders for Enforcement Agents, on the basis of the pre-tender considerations set out in paragraphs 5.3;
- 2.2 Gives approval for the evaluation of tenders referred to in 2.1 above on the basis of the criteria set out in paragraph 5.3 of this report; and
- 2.3 Delegates authority to the Strategic Director, Regeneration and Environment, in consultation with the Lead Member for Environment, to approve the award of contracts to two providers.

3.0 Detail

- 3.1 The council issues Penalty Charge Notices (PCNs) for a variety of parking and traffic infringements. There are four categories of PCNs:
- CEO-issued PCNs: PCNs fixed to the windscreen of a vehicle or handed to the driver for parking contraventions, served under the provisions of the Traffic Management Act 2004.
 - CCTV Parking PCNs: PCNs served by post for parking contraventions, where the contravention has been captured by a CCTV camera, served under the provisions of the Traffic Management Act 2004 and limited by the Deregulation Act 2015.
 - CCTV Moving Traffic PCNs: PCNs served by post for moving traffic contraventions (e.g. stopping in a yellow box junction, or turning left or right where the manoeuvre is prohibited), served under the provisions of the Transport for London and London Local Authorities Act 2003.
 - CCTV Bus Lane PCNs: PCNs served by post for Bus Lane infringements, served under the provisions of the London Local Authorities Act 1996.
- 3.2 The relevant statutes prescribe different timescales for increasing Penalty Charges (should prompt payment not be received), for serving subsequent notices, and for permitting challenges, representations and appeals.
- 3.3 Ultimately, non-payment of a PCN will result in the council formally registering the PCN as a debt at Northampton County Court (TEC), as a precursor to issuing an Enforcement Agent ('bailiff') with a warrant to collect the outstanding debt on the council's behalf. In April 2014 the *Taking Control of Goods Regulations* were introduced nationally to standardise Enforcement Agent fees and practices.
- 3.4 Typically, local authorities recover debt and close about 70% of all PCNs issued. The remainder are either cancelled following an upheld challenge, representation or appeal; or are deemed unrecoverable if the debtor cannot be traced. Unlike other debts raised by the council, with notices served to properties rather than individuals, the registered keeper of the vehicle is liable for parking and traffic Penalty Charge Notices. This means that the council are reliant upon name and address information provided by the DVLA for the service of the associated statutory notices by post.
- 3.5 In the current financial year to date, the council has referred over 14,000 cases to its Civil Enforcement Agents. Warrants are valid for a full year from their date of issue.

4.0 Evaluation Criteria and Appointment of Two Providers

4.1 Enforcement Agents add their own fees to the outstanding debt which are retained upon collection, with the debt element passed back to the Council. These fees are fixed:

- Compliance fee: £75
- Enforcement fee: £235
- Sale/Disposal fee: £110

There is therefore no price element to consider when evaluating tenders. The debt recovered on behalf of the council is entirely dependent on the quality of service offered by Enforcement Agents.

4.2 Tenders will therefore be scored 90% on quality of service and 10% on social value.

4.3 Two Enforcement Agents will be appointed under the Contract, with the specification drafted to ensure that a higher proportion of warrants will be passed to the best performing provider.

5.0 Pre-Tender Considerations

5.1 As per the Council's procurement requirements, consideration has previously been given to the collection of Parking and Traffic debts as part of an in-house service. The evaluation concluded that the contract should continue to be outsourced to specialist providers because:

- most Parking and Traffic debts are incurred by motorists who reside outside of the borough
- many debtors owe a number of different parking and traffic enforcement authorities, so debt recovery can be undertaken for several clients
- a specialised process is required for the progression of parking and traffic debt, underpinned by legislation

This view was endorsed by Cabinet on 13th September 2016, in the report *Fair Debt Recovery Policy and In-House Enforcement Agents (Bailiffs) Service*. However, in light of the proposed establishment of an in-house service, the Contract will be drafted to ensure that warrants pertaining to in-borough PCN debtors could be retained by the Council. They could then be passed to the in-house debt collection team so that the feasibility and effectiveness of in-house collection of PCN debts can be assessed, and taken further if successful.

5.2 The recommended approach is to procure as a single authority. This recommendation has been endorsed by the council's Commissioning and Procurement Board.

5.3 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of Cabinet.

5.4

Ref	Requirement	Response
i.	The nature of the service.	Enforcement Agents (debt collection)
ii.	The estimated value	£0.4m income per annum
iii.	The contract term	A contract of three year duration from 1st July 2018 to 30 th June 2021, with an option to extend the term of the contract for up to two years to 30 th June 2023.
iv.	The tender procedure.	A two stage tender process in accordance with the Council's Standing Orders.
v.	The procurement timetable.	Indicative times <ul style="list-style-type: none"> • Advert and issue of Pre-selection questionnaire – Feb 2018. • Deadline for selection questionnaire – March 2018. • Evaluation and shortlisting - March 2018. • Issue Invitation to tender – early April 2018. • Deadline for tender submissions – early May 2018 • Panel evaluation – May 2018. • Contract decision –May 2018. • Authority to Award report approval – June 2018. • Contract mobilisation – June 2018 • Contract start date - 1st July 2018.
vi.	The evaluation criteria and process.	Shortlists will be drawn up in accordance with the Council's Contract Management and Procurement Guidelines; through the use of a selection questionnaire to identify organisations that meet the Council's requirements and standards. At the tender evaluation stage, the panel will evaluate tenders against the following criteria: Quality: 90% delivery of service 10% Social Value Price: 0%
vii.	Any business risks.	No risk is foreseen because the recovery of debts will fully cover the statutory fees and enforcement agency costs.
viii.	The Council's Best Value duties.	The Council has a duty to secure cost-effective and efficient services that meet the needs of the Borough.
ix.	Public Services (Social Value) Act 2012	In accordance with the Council's social value policy, 10% of the overall marks will be awarded for social value benefits.
x.	Staffing implications.	N/A.

xi.	Financial, legal and other considerations.	See sections 6 and 7.
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6.0 Financial Implications

- 6.1 The council have received income of £0.43m from its Enforcement Agent contractors in the 2017/18 financial year to date, specifically relating to the recovery of unpaid Penalty Charge Notices. This service is vital in ensuring that budgeted income forecast from the issue of Penalty Charge Notices is recovered.
- 6.2 The council forecasts income received from Penalty Charge Notices on a yield basis, using data relating to historical receipts to determine a likely recoverable value over an 18 month period. This method has proven to have a high degree of accuracy, but is reliant on the service continuing to follow the current practice of collection, including the issue of warrants to bailiffs.

7.0 Legal Implications

- 7.1 A number of Acts of Parliament, as cited in paragraphs 3.1 and 3.6 above, underpin the legality and enforceability of this proposed tender.
- 7.2 Contracts for bailiff services are regarded as service concession contracts. Such contracts do not fall within the Public Contracts Regulations 2015 but will fall under the Concession Contracts Regulations 2016 ("CCR 2016"). The threshold for application of the CCR 2016 is £4,551,413 and therefore the bailiff contracts will not be subject to the full requirements of the CCR 2016.
- 7.3 The estimated value of the bailiff contracts is such that the contracts are classed as High Value Contracts under the Council's Contract Standing Orders. As a result, they have to be procured by way of tender process. For High Value Contracts, the Cabinet must approve the pre-tender considerations set out in paragraph 5.3 above (Standing Order 89) and the inviting of tenders (Standing Order 88).
- 7.4 Under Section 55 of the Road Traffic Regulation Act 1984 (as amended, and hereafter referred to as "the 1984 Act"), enforcement authorities must keep account of their income and expenditure in respect of on-street parking places. The 1984 Act requires that any surplus must be applied towards specific purposes as set out under Section 55(4).
- 7.5 As detailed at paragraph 8.1, the service is currently provided by external bailiffs. Whilst there is a potential for staff from existing bailiff firms to transfer to any newly appointed bailiffs pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended), this is unlikely given the nature of the services provided.

8.0 Equality Implications

- 8.1 This report proposes to go to tender for the provision of a service which is already provided externally, and therefore there are no new diversity implications arising from this report.
- 8.2 Parking and traffic Penalty Charge Notices are served to the registered keepers of vehicles as a consequence of parking or traffic infringements. Beyond this qualifying factor, it is not possible to distinguish individual characteristics of the debtors.

9.0 Consultation with Ward Members/Stakeholders

- 9.1 The Lead Member for Environment has been consulted on the contents of this report.

10.0 Human Resources/Property Implications

- 10.1 This service is currently provided by external contractors and there are no implications for Council staff or premises arising from re-tendering the contract.

Report sign off:

AMAR DAVE

Strategic Director of Regeneration and Environment