

 <b>Brent</b>	<b>Decision of Cabinet Member for Jobs, Economy &amp; Citizen Experience</b>
	<b>Report from the Corporate Director, Resident Services</b>
<b>Authority to vary and extend contracts with enforcement agents for council tax</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Non Key Decision
<b>Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</b>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer(s): (Name, Title, Contact Details)</b>	Name: Peter Cosgrove Head of Revenue and Debt 020 8937 3453 <a href="mailto:peter.cosgrove@brent.gov.uk">peter.cosgrove@brent.gov.uk</a>  Name: Thomas Cattermole Director of Customer Access <a href="mailto:Thomas.Cattermole@brent.gov.uk">Thomas.Cattermole@brent.gov.uk</a>

## 1.0 Purpose of the Report

- 1.1 This report requests authority to vary and extend the contracts in respect of enforcement agent services for revenue and debt services with Newlyn PLC ("Newlyn"), CDER Group Ltd ("CDER"), Equita Limited ("Equita") and the London Borough of Newham Council's oneSource Debt Resolution Services ("oneSource") in accordance with paragraph 13 of Part 3 of the Constitution.

This will allow these contracts to be co-terminus with those for parking and road traffic, ending on 30 June 2023. A further procurement exercise will then take place with any new arrangements in place from 1 July 2023.

- 1.2 A summary of the background to the recommendation, including details of the contract and the benefits to be obtained, is outlined below.

## **2.0 Recommendation(s)**

That the Cabinet Member for Jobs, Economy & Citizen Experience, having consulted with the Leader in accordance with paragraph 13 of Part 3 of the Constitution:

- 2.1 Approves the variation of the four contracts for enforcement agent services for revenue and debt services with Newlyn, CDER , Equita and oneSource to allow for an additional extension period of 8 months
- 2.2 Approves the extension of the contracts detailed in Recommendation 2.1 for a period of eight months from 1 November 2022 to 30 June 2023.
- 2.3 Notes that all enforcement agents work in accordance with the Council's Ethical Debt Recovery Policy.

## **3.0 Detail**

- 3.1 This report concerns the existing contracts for enforcement agent services. Initially contracts were entered into following the return of council tax from its Capita contract in 2019, with further contracts entered into from 2 November 2020 to 1 November 2021 with provision for a 6 month extension. A contract with oneSource was also entered into. The latter contract only commenced on 1 April 2021 for a period of one year, again with the provision for a 6 month extension.
- 3.2 On 25 June 2021, the Director of Customer Access gave approval to a decision to vary and extend contracts with Newlyn, CDER and Equita not only by the six month extension provision contained in the contract but also by an additional six months less one day. This resulted in an extension of these contracts of twelve months less one day, with the contract term expiring on 31 October 2022. The contract with oneSource was also varied and extended at that time by the six months provided for in the contract, together with an additional period of one month to ensure that that contract also expired on 31 October 2022.
- 3.3 In addition to the enforcement agent services that the Council has with Newlyn, CDER, Equita and oneSource, the Council also has contracts for enforcement agent services for parking and Road Traffic warrant enforcement. Officers consider there is merit in procuring all enforcement agent services at the same time and therefore it is recommended to extend the contracts with Newlyn, CDER, Equita and oneSource to make these contracts co-terminus with the agreements the Council has in place for enforcement agent services for parking and Road Traffic warrant enforcement.

- 3.4 With the extensions in place, a procurement will take place later this year and early next in order to start new contracts to cover council tax and debt together with parking, road traffic as well as for debt collection agency services across all lines of debt from July 2023.
- 3.5 It is important to note that enforcement agents are managed closely by the Council and operate in accordance with the Council's Ethical Debt Recovery Policy. This policy, agreed on 22 February 2021, makes clear, in following 6 guiding principles, the Council's approach to debt recovery and dealing with vulnerable residents. In particular the policy makes clear the Council's approach to the use of enforcement agents:
- “As part of the Council's approach to enforcing debts, the Council, ... will use the enforcement route deemed most likely to prove successful.....this may include, attachment of benefit, attachment of earnings, charging orders, bankruptcy, committal hearings, obtaining possession and referral to enforcement agencies....”
- And ...” All enforcement agents used will be committed to working with empathy, ethically, identifying vulnerability....”
- 3.6 It is therefore proposed to extend the contracts for CDER, Equita, Newlyn and One Source for a period of 8 months from 1 November 2021 to 30 June 2023.
- 3.7 The extension will require the variation of the contracts to allow for this longer extension.
- 3.8 All providers are in agreement with the proposals.
- 3.9 As the proposed 8 month extension of the contracts with Newlyn, CDER, Equita and oneSource is in excess of the period for which Officers have delegated authority to extend the four contracts, Cabinet Member approval is sought to vary and extend the contracts in accordance with paragraph 13 of Part 3 of the Constitution.
- 3.10 The Cabinet Member is asked to give approval to these proposals as set out in the Recommendations and in accordance with the Constitution.

#### **4.0 Financial Implications**

- 4.1 The original estimated value of the 4 contracts was £1.8M. The value of the proposed variations and extensions will depend on the debt collection work undertaken but in the recommended 8 month period, it is estimated to be less than £300,000.
- 4.2 As the 4 contracts are concession contracts, there is no cost to the Council for these contracts. Debts are collected on behalf of the Council, with enforcement agents charging fees set by statute to the debtor.

## 5.0 Legal Implications

- 5.1 Officers are proposing to vary and extend the four contracts for enforcement agents for the Council's revenue and debt services. There is no provision in the contracts for a further extension to the contract period and therefore the contracts will need to be varied to permit extension of the contracts to 30 June 2023. The value of each individual concession contract falls below the threshold of the Concession Contracts Regulations 2016. In any event, it is considered that the variations and extensions would be permitted in accordance with Regulation 43 of the Concession Contracts Regulations 2016.
- 5.2 Pursuant to Section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Chief Officers have authority to agree the variation and extension of contracts subject to certain limitations, to include extending contracts where the extension exceeds a period of 12 months beyond that permitted by the contract. Under the table at paragraph 13 of Part 3 of the Constitution (Decisions by Individual Members) Cabinet members in consultation with the Leader have the power to agree an extension and variation to a contract, where the decision is excluded from officer delegated powers because:
- (a) the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract; and
  - (b) the contract, agreement, deed or other transaction has a life of more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of one year;
- 5.3 The provisions set out in paragraph 5.2 above apply to the proposed variations and extensions of the 4 contracts as follows:
- (a) The proposed extensions are beyond the period of extension provided for within the contract, which was a six month extension period that has already been activated (see paragraph 3.2).
  - (b) The contracts had a total term of 18 months, including a six month extension. The proposed extension to the contracts with Newlyn, CDER, and Equita is a period of eight months. These contracts have already been extended by six months less 1 day beyond the initial 18 month period using delegated officer powers (see paragraph 3.2 above). The proposed further extension would lead to a total additional extension of 14 months less 1 day, which is beyond the 12 months an officer has delegated power to approve.
- 5.4 With regard to the contract with oneSource, this was varied and extended by the six months provided for in the contract, together with an additional period of one month. There is a wish to vary and extend the contract by a further 8 months. Whilst this is 9 months beyond the permitted extension and could be

approved by a Chief Officer, nevertheless Cabinet members in consultation with the Leader have the power to agree an extension and variation to a contract as a referral pursuant to Part 3 paragraph 9.5 3(b)(e) and 3(b)(g).

- 5.5 In view of the above and subject to consultation with the Leader, it is considered that the Cabinet Member for Jobs, Economy and Citizen Experience has delegated authority to agree the Recommendations in this report

## **6.0 Equality Implications**

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 6.2 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 6.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.4 The proposals in this report have been subject to screening and Officers believe that there are no adverse equality implications.

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 None

## **8.0 Human Resources/Property Implications (if appropriate)**

- 8.1 None

## **9.0 Public Services (Social Value) Act 2012**

- 9.1 As concession contracts, the Public Services (Social Value) Act 2012 (“Social Value Act”) does not apply. However, the recommended variations and extensions will allow the Social Value Act to be taken into account in relation to the re-procurement of enforcement agent services to commence from 1 July 2023.

Related Documents:

June 2021 Officer decision to extend contracts

**Report sign off:**

**Peter Gadsdon**

Corporate Director, Resident Services