



**Cabinet**  
22 May 2023

**Report from the Corporate Director,  
Resident Services**

**Award of Contracts for Enforcement and Collection Agent Services**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt - Appendix 2 of the report is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
<b>No. of Appendices:</b>	Three: Appendix 1: Equality Assessment Appendix 2: Names of Tenderers (exempt) Appendix 3: Scores of Tenderers
<b>Background Papers:</b>	None
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**1.0 Purpose of the Report**

- 1.1 This report concerns the award of contracts for the provision of the Debt Resolution Service following approval of the Director of Customer Access on 24 March 2023 to procure the provision of the Debt Resolution Service.

- 1.2 This report sets out the approvals required from Cabinet to award contracts for:
- i. the provision of Debt Resolution Services for the collection of unpaid debts in relation to parking and traffic Penalty Charge Notices, Council Tax, Sundry, Adult Social Care client contribution, housing benefit overpayments and other debts that may require use of an enforcement agent or collection agent (“Debt Resolution Services”).
  - ii. the provision of debt collection services for debts owing to the council where enforcement is not an option, such as former tenant arrears and sundry debts.
- 1.3 This report summarises the procurement approach followed, the decision process and added value commitments of the selected enforcement agents and the ongoing commitment to the Council’s Ethical Debt Recovery Policy.

## **2.0 Recommendation(s)**

That Cabinet:

- 2.1 Approves the award of the concession contracts for the provision of the Debt Resolution Services to the following three Enforcement Agent companies for a period of four (4) years:
- i. Newlyn PLC,
  - ii. Marston (Holdings) Ltd, and
  - iii. CDER Group Ltd.
- 2.2 Approves an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a contract for Debt Resolution Services with Newham LBC’s oneSource service for the reasons set out in paragraphs 3.10 - 3.12.
- 2.3 Approves the award of a concession contract for the provision of Debt Resolution Services with Newham LBC’s oneSource service for a period of four (4) years.

## **3.0 Detail**

### *Parking and Road Traffic*

- 3.1 The council issues Penalty Charge Notices (PCNs) for a variety of parking and traffic infringements. There are four main categories of PCNs:
- i. Civil Enforcement Officer (CEO) issued PCNs: PCNs fixed to the windscreen of a vehicle or handed to the driver for parking contraventions;
  - ii. CCTV Parking PCNs, PCNs served by post for parking contraventions, where the contravention has been captured by a CCTV camera;

- iii. 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); and
  - iv. CCTV Bus Lane PCNs: PCNs served by post for Bus Lane infringements,
- 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. Ultimately, non-payment of a PCN will result in the council formally registering the PCN as a debt at Northampton County Court Traffic Enforcement Centre (TEC), which covers all PCNs for England, as a precursor to issuing an Enforcement Agent ('bailiff') with a warrant to collect the outstanding debt on the Council's behalf.

#### *Council Tax*

- 3.3 Non-payment of Council Tax once a process of reminders is complete may result in the application by the Council to the Magistrates' Court for a Liability Order by the Council. The Liability Order may be enforced in a number of ways. This can include:
- i. ordering an employer to make deductions direct from the debtor's salary or wages;
  - ii. applying to the Department for Work and Pensions to make deductions from benefits;
  - iii. a request to the court to place a charge on a property owned by the debtor;
  - iv. apply to the court for a bankruptcy order;
  - v. issue a warrant of arrest for a committal hearing;
  - vi. passing the debt to Enforcement Agents to enforce. This is the most common option as the Council often lacks other information that is required by the other options and it is this option that is relevant to the procurement of Debt Resolution Services.

#### *Parking and Council Tax Enforcement charges*

- 3.4 For warrant and liability orders the same regulations apply. These are The Taking Control of Goods Regulations 2013 ("Regulations") that were introduced nationally in 2014 to standardise Enforcement Agent fees and practices.
- 3.5 The fees added by the Enforcement Agents are set by these Regulations, with the debt element remitted to the Council. These additional fees charged to the debtor are as follows:
- i. Compliance fee: £75
  - ii. Enforcement fee: £235
  - iii. Sale/Disposal fee: £110

- 3.6 In addition to enforcement work, the providers will also work as a debt collection agent on behalf of the Council. The debts in these cases will be where the Council does not have a legal instrument to enforce such as with sundry debt, overpaid HB and former tenant arrears where no county action has been taken.

*Evaluation Criteria and Appointment of Three Providers*

- 3.7 As set out in Section 4, the procurement of Enforcement Agents has been through a framework set up by Crown Commercial Services. As the enforcement fees are set by regulation, the price element is not particularly relevant when evaluating the prospective Enforcement Agents tenders.
- 3.8 Tenders were therefore scored with a weighting of 90% for quality of service (including social value) and 10% for pricing.
- 3.9 Three Enforcement Agent companies will be appointed under contracts, with the specification drafted to ensure that a higher proportion of warrants, County Court Judgements and liability orders will be passed to the best performing provider.
- 3.10 All agents are required to work in accordance with the Council's Ethical Debt Recovery Policy and appropriate professional standards, ensuring that residents of Brent are supported as required.

*Appointment of Newham LBC's oneSource*

- 3.11 It is recommended that in addition to the appointment of three Enforcement Agents under the CCS framework, there is also the appointment of Newham LBC's oneSource.
- 3.12 Newham LBC's oneSource is very focused on ethical collection and support for residents. It is felt that having oneSource as an Enforcement Agent will complement the services provided by the other Enforcement Agents in that it:
- is a direct local authority service,
  - has a clear commitment to values, similar to those of Brent,
  - does not operate for profit,
  - will provide a share of its fee income,
  - has a very strong commitment to ethical collection and
  - provides one-to-one support for residents that shall be particularly useful in dealing with debt in Brent.
- 3.13 In order to directly appoint Newham LBC oneSource, it is recommended to approve an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a contract for Debt Resolution Services.

## 4.0 Procurement

### The Tender Process for the three Providers

- 4.1 The process involved a mini competition via Lot 5 of the Crown Commercial Service (CCS) RM6226 framework agreement. Under Lot 5 there are 13 suppliers appointed.
- 4.2 A mini competition was published on 24<sup>th</sup> March 2023, using the Council's Electronic Tendering Facility. All 13 suppliers were offered the opportunity to bid for the proposed contract.
- 4.3 Evaluation was carried out based on the contractor's quality, social value and price.
- 4.4 The tendering instruction stated that three highest scoring contractors would be selected for contract award based on the most economically advantageous offer to the Council and that all compliant Tender responses would have regard to the following evaluation award criteria:

Award Criteria	Weighting (%)
Quality 1. Service Delivery 2. Quality of Service 3. Debt Recovery Process 4. Added Value	30% 20% 20% 10%
5. Social Value	10%
6. Pricing Schedule	10%
Total	100%

### The Evaluation Process

- 4.5 The tender evaluation was carried out by a panel of officers from Parking Services and Revenue and Debt.
- 4.6 All tenders had to be submitted electronically no later than 18<sup>th</sup> April 2023, 13:00. Tenders were opened on 18<sup>th</sup> April 2023 after 13:00 and 5 valid tenders were received. Each member of the evaluation panel read the tenders and carried out an initial evaluation of how well they considered each of the award criteria was addressed in the tender response documents.

- 4.7 The evaluation panel met on 20<sup>th</sup> April 2023 for a moderation meeting and each submission was marked by the whole panel against the award criteria. The pricing, social value and quality scores were then combined to give a total score for each tenderer.
- 4.8 The names of the tenderers are included in Appendix 2. The scores received by the tenderers are included in Appendix 3. It will be noted that Supplier 1, 2, 3 are the top 3 highest scoring tenderers. Officers therefore recommend the award of the contract to Supplier 1, namely Newlyn Plc; Supplier 2, namely Marston (Holdings) Ltd; and Supplier 3, namely CDER Group Ltd.

## **5.0 Financial Implications**

- 5.1 All income due to the Council is recognised in the Council's General Fund revenue account, Housing Revenue Account or Collection Fund in the year it is due for collection.
- 5.2 The Council also makes a provision for a proportion of debt being uncollectable. The methodology applied is specific to the expected collectable amount for each type of debt. However, for all types of debt, the General Fund, Housing Revenue Account or Collection Fund incur a cost equivalent to the increase in the provision.
- 5.3 Reducing the amount of uncollectable debt through this service may subsequently lead to a reduction in the provision for uncollectable debt. This would result in a release of funds back to Council's General Fund revenue account, Housing Revenue Account or Collection Fund.
- 5.4 The cost to the Council of the use of enforcement agents to the Council is nil. This is because enforcement agents make their revenue by collecting the statutory fees from debtors, and these fees that are paid first by the debtor. Where the agents are given other debts to collect as a collection agent, no fees are charged to the debtor. In these cases the agents will make revenue by keeping a proportion of the debt they collect, the proportion they keep will be agreed with the Council and is dependent on how hard it may be to collect, all debts offered to agents in this way will already be covered by the Council's bad debt provision, so all monies collected are in addition to expectation.

## **6.0 Legal Implications**

- 6.1 Officers are proposing that concession contracts are awarded to three Enforcement Agent companies following the procurement process set out in Section 4 and the direct award of a contract to the London Borough of Newham oneSource for a period of up to four years.
- 6.2 The appointment of the Enforcement Agents will be classed as Concession Contracts and are therefore subject to the Concession Contracts Regulations 2016. The threshold for concession contracts is £5,336,937.00. The combined value of the three proposed contracts with Enforcement Agents procured under the CCS framework is £1,500,000.00, which would fall below this threshold.

Each individual concession contract will be in the region of up to £375k, with the London Borough of Newham's oneSource contract being of a similar value to that of the other enforcement agent companies.

- 6.3 For the purposes of the Council's Standing Orders and the Financial Regulations, the estimated individual value of the Enforcement Agent contracts will be classed as Medium Value Contracts. Contract Standing Orders provide that Medium Value Contract should be procured by way of a tender process or via a competitive process under a framework. The three enforcement agent companies have been procured under the CCS framework. However, Officers consider that direct award of the contract with the London Borough of Newham's oneSource is appropriate and an exemption is sought pursuant to Contract Standing Order 84(a) of the requirement to tender a contract. Given that the value of the proposed contract is considerably less than the threshold for application of the Concession Contracts Regulations 2016, it is legally permissible to grant such waiver.
- 6.4 As the procurement of the Debt Recovery Service is from a framework, there is no requirement for the Council to observe a 10-day standstill period under the PCR 2015, although the award of the contracts will be subject to the council's usual call-in process.

## **7.0 Equality Implications**

- 7.1 The public sector equality duty requires public bodies to pay due regard to the need to:
- eliminate unlawful discrimination, harassment, and victimisation and other conduct prohibited by the Equality Act, 2010.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not
- 7.2 The Equality Act 2010 and the Public Sector Equality Duty (outlined above) cover the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, gender, and sexual orientation.
- 7.3 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.
- 7.4 The requirement to appoint enforcement agent suppliers is considered necessary to recover debts from customers who wilfully neglect their obligation to meet liabilities owed to the Council. This procurement of suppliers for enforcement agent services will assist the Council in meeting its statutory obligations to recover former tenants Housing Rent arrears, Parking, Council Tax, National Non-Domestic Rates, Adult Social Care client contributions,

Housing Benefit Overpayments and Sundry debts that are owed to the Council. The enforcement agents being mindful of how debt collection is recovered where people are vulnerable, through age, disability etc. The successful suppliers will take on the public sector equality duty on the Council's behalf.

- 7.5 The Council is under statutory obligation to recover current and historic debt. An equality assessment has been undertaken and the assessment is attached as Appendix 1. It is necessary to have regard to the assessment when considering the Recommendations.

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

- 8.1 The Council has consulted Councillor Fleur Donnelly-Jackson, Cabinet Member for Customers, Communities & Culture.

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

- 9.1 None

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

- 10.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. This duty does not strictly apply to the proposed contract as it is not a services contract. Nevertheless, Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.
- 9.2 As detailed at paragraph 4.4, Social Value was assigned a weighting of 10% of the evaluation score.

**Report sign off:**

**Peter Gadsdon**  
Corporate Director, Resident Services