

Cabinet –15 June 2016

Procurement of a combined Enforcement and Debt Agent Contract

Portfolio: Councillor D Coughlan – Social Care

Related portfolio: Councillor L Jeavons – Regeneration

Service: Money Home Job

Wards: All

Key decision: No

Forward plan: Yes

1. Summary

- 1.1 The council has a duty to efficiently collect local taxes, civil parking penalty charges and sundry debts. This income is important to the Council in order to maintain vital services. In the first instance, the council will use its own recovery officers to remind residents to pay through a billing and reminder process. Where this fails and officers have exhausted all other methods of collection, enforcement agents are used to collect outstanding sums due to the council. The council currently has a number of contracts in place with enforcement and debt collection agents, which are all due to expire on 31 July 2016.
- 1.2 This report recommends the procurement and then delegating of authority to appoint enforcement / debt collection agents for a period for a period of three years up to 31 July 2019 (with an option to extend by a further 12 months).

2. Recommendations

- 2.1 That Cabinet delegate authority to the Head of Business Change, in consultation with the Portfolio Holder for Social Care, to award the Enforcement Agency Services Contract from 1 August 2016 to 31 July 2019, with the option for the Council to extend the term of the contract for a further one year.

3. Report detail

- 3.1 Tenders are being sought for the award of a concession contract under the newly enacted Concession Contracts regulations 2016, for the provision of enforcement and debt collection agency services to aid the Council. These tenders are in line with nationally accepted and enforced standards. The subject debts include unpaid :

- council tax
- business rate
- civil traffic and parking penalty charges
- housing benefit overpayments
- sundry debts

3.2 The Tenders are split into two Lots and the Council is seeking to appoint up to three organisations for each Lot. Officers will allocate an equal share of the work-load during the life of the contract to each successful Tenderer, subject to a satisfactory review of performance of each organisation in each year as the contract term progresses.

(a) Lot 1

Revenues and civil traffic enforcement delivered by an Enforcement Agency and the collection of debts through a Debt Collection Agency

Indicative Annual Case Volumes for Lot 1:

Council Tax liability orders	9,000 cases
Business Rates liability orders and BIDS	750 cases
Housing Benefit Overpayment	2,000 cases
Sundry Debts cases	750 cases
Civil Traffic warrants	3,000 cases

(b) Lot 2

This is specifically targeted at local taxation collection for recycled cases – i.e. debts which have previously been referred to an Enforcement Agency without success.

Indicative Annual Case Volumes for Lot 2:

Council Tax	2000 cases
Business Rates and Business Improvement	100 cases
District schemes (BIDS)	

4. Council priorities

- 4.1 Understanding why residents fail to pay outstanding debts to the council and making arrangements to help resolve those issues is a key priority within the income collection work carried out in both revenues and traffic management services.
- 4.2 The collection of outstanding monies by the council is a key contribution to the 'cash flow' of the organisation and therefore to delivering all council priorities.
- 4.3 The tenderers that are successful in securing a contract from the Council for each Lot will be subject to nationally agreed standards which have been adopted by the council, as well as the council's own Codes of Practice for debt collection and enforcement action . These cover areas such as taking a

professional and equitable approach to debt recovery.

- 4.4 In addition, the conduct of debt recovery work and the charging of fees and disbursements to debtors is heavily regulated by the Taking Control of Goods Regulations 2013 and the Taking Control of Goods (Fees) Regulations 2014. The successful tenderers will be required to comply strictly with these regulations and all enforcement officers who take possession of debtors' goods to facilitate debt repayment, must be authorised to do so by the courts.

5. Risk management

- 5.1 The principal risk relates to the potential that the Council will not be able to secure suitable organisations to undertake the services. This risk is mitigated by the fact that the proposed tendering exercise is of a scale that requires advertising in the Official Journal of the European Union (i.e. it involves a total turnover in excess of the statutory threshold of £4,104,394 that applies to the life of the contract under the Concession Contracts Regulations 2016. As such therefore it is anticipated that the invitation to tender will result in a high level of interest from a wide range of service providers.

6. Financial implications

- 6.1 Collection and enforcement fees are set at a national agreed level and as the enforcement agency and debt collection service costs are recovered directly from the debtor there is no legal financial 'consideration' in relation to this proposed contract.
- 6.2 The tenderers will have an option of tendering a commission to be charged to the council for the recovery of sundry and other debts where the Taking Control of Goods (Fees) Regulations 2014 do not apply. However it is anticipated that this may be set at zero by the most competitive tenderers.
- 6.2 Use of efficient and successful collection and enforcement agencies by the council maximises the collection of debt and income for the council and minimises bad debt that has to be written off. In 2015/16 collection through the existing framework secured £1.7m.
- 6.3 The use of 'Lots' (specific independent sections) within the tender will help to increase the quality of service being delivered by the successful tenderers. The use of up to 3 organisations per Lot will enable comparisons to be made between the performance of each provider during the course of the contract period, to again facilitate the monitoring of quality and scale (and value to the council) of recovery.

7. Legal implications

- 7.1 The procurement and use of external debt collection and enforcement organisations is common amongst councils and is governed by either the Public Contracts Regulations 2015, or the Concession Contracts Regulations 2016.
- 7.2 This tendering exercise has been developed as a concession (rather than a service contract), so that the successful tenderers will be granted a right to pursue debt collection and recovery procedures in the cases that are referred to it, in such manner as they consider appropriate. The successful tenderers will however still be subject to the regulatory requirements and local codes of practice. The successful tenderers will also recover their charges and disbursements direct from debtors in accordance with the regulations (where applicable) rather than being paid direct by the Council (except in those cases where a commission applies). All of the risks associated with operating and managing this kind of service will therefore be borne by the successful tenderers, in terms of recovering their costs and managing the service. All of these features mean that the proposed contracts will be governed by the Concession Contracts Regulations 2016, rather than being a standard service contract which is governed by the Public Contracts Regulations 2015 and paid for by the Council.
- 7.3 The tenders are therefore to be sought in full compliance with the Council's Contract Rules and the Concession Contracts Regulations 2016.
- 7.4 The Council Legal Services and Procurement teams will work together to review, draft and perfect the tender packs before they are issued to prospective tenderers via the Council's electronic procurement portal which is known as In-Tend.

Procurement reporting

The tender process has been agreed with the procurement team in consultation with legal services to ensure that the entire procurement process is compliant with the Council's internal governance in addition to UK and EU law.

The tender evaluation, award criteria and lot structure have been selected with the Lord Young recommendations in mind, to remove any barriers to SME's wishing to bid and takes account of Social Value considerations including the five Key Priorities of the Council's Social Value Charter.

Following the conclusion of the tender process and prior to award detailed feedback will be given to the unsuccessful bidders, in accordance with CCR 2016 Regulation 40.

8. Property implications

- 8.1 There are no property implications.

9. Health and wellbeing implications

9.1 The proposed contracts which will be awarded on the conclusion of the tendering exercise will assist indirectly in achieving a number of the key objectives of the Marmot Review, as follows:

- Ensure a healthy standard of living for all
- Create and develop healthy and sustainable communities
- Strengthen the role and impact of ill-health prevention

This will be particularly through the impacts as summarised below.

9.2 In 2013 the 'Money Advice Service' estimated that almost nine million people in the UK were over-indebted, with over-indebtedness shown across the income spectrum. They found that:

- 74% of those people with unmanageable debts are unhappy;
- 70% often feel anxious about their debts; and
- 56% report a negative impact on their family life.

Three effects of problem debt stand out from the literature reviewed by them, including the impact on:

- mental health;
- people's relationships; and
- people's ability to work.

9.3 Tackling problem debt in Walsall is a priority to addressing the problems highlighted above; this has been addressed within the Tender.

9.4 Whilst effective collection of local taxes and sundry debts is important to the council in achieving its priorities, the contract has been drafted to ensure that if Enforcement Agents identify customers as being vulnerable and or in problem debt, the case may be returned to the council (without cost to the council), to ensure that the correct help and support can be given to those individuals. This may include offers of additional help to break the cycle of debt and support to specifically combat problem debt, such as:

- budgeting advice;
- debt management; and
- income maximisation.

10. Staffing implications

10.1 There are no direct staffing implications as the service is provided by contractors who are, through the tender process, obliged to commit sufficient resource to support the delivery of the service.

11. Equality implications

- 11.1 Contracts will address equality issues in line with corporate equality standards. The codes of practice are written to ensure that debt collection and recovery agencies comply with all existing equality requirements.
- 11.2 The Financial Conduct Authority, highlight that over-indebtedness is across the income spectrum.

12. Consultation

- 12.1 Consultation has been undertaken with neighbouring councils to identify best practice and has indicated that the approach proposed is the most appropriate option.

Background papers

None

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Signed
Paul Gordon
Head of Business Change

6 June 2016



Signed
Councillor Diane Coughlan
Portfolio holder Social Care

6 June 2016

Cabinet report consultation sheet

Report title:	Combined Enforcement Agent Contract
Author and contact details:	Patrick Morrison ext 0760
Responsible Executive Director:	Paul Gordon
Cabinet meeting:	15 June 2016
Key decision	No
Report included in forward plan	Yes
Stakeholder consultation	Not required
Equality Impact Assessment	Not required
Service area Oracle code (without this legal cannot comment on the report)	6632.6321010

Consultees

Members	Consulted - Who	Date(s) consulted	Comments of consultees
(a) Portfolio holder			
(b) Ward Councillors			

Officers	Consulted - Who	Date(s) consulted	Comments of consultees
(a) Legal services	Richard Ackroyd Chris Kerr	17/05/16	Comments incorporated
(b) Finance	Irfan Mohammed	16/05/16	Comments incorporated
(c) Procurement – for all procurement and contract related reports	Cliff Summerskill	18/5/16	Comments incorporated
(d) Property services	n/a		
(e) Public health	n/a		
(f) Human resources	n/a		
(g) Heads of other relevant service(s)	n/a		

Other consultees (if applicable)

Others	Consulted - Who	Date(s) consulted	Comments of consultees
(a) Trade Unions	n/a		
(b) Communications Unit			

Comments:**Approvals**

Officer	Comments	Signature	Date
Head of Service	Agreed	Approved David Lockwood	18/5/16
Assistant Director			
Executive Director			

Please note:

It is the role of Democratic Services to ensure that your reports meet members' expectations in terms of quality, validity and relevance. To do this suggested changes may be made to your report.

It is important therefore that proper attention is paid to the completion of the consultation sheet and that it is updated as necessary throughout the process.

If a consultation sheet is not provided to Democratic Services with the report, or is not completed satisfactorily, your report may be withdrawn from the agenda for the meeting.

June 2015