

CABINET

25 May 2021

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| Title: Procurement of External Enforcement Agent Service | |
| Report of the Cabinet Member for Finance, Performance and Core Services | |
| Open Report | For Decision |
| Wards Affected: None | Key Decision: No |
| Report Author: Karl Smith – Enforcement Agent Service Manager | Contact Details: Tel: 07925356337 E-mail: karl.smith@lbbd.gov.uk |
| Accountable Strategic Leadership Director: Mark Fowler, Strategic Director, Community Solutions | |
| Summary: <p>The Council currently uses a number of external Enforcement Agent companies to assist in collecting debts across various services including Council Tax, Business Rates, Parking, Housing Benefit Overpayments and General Income.</p> <p>The services were provided through the wider partnership with Elevate, which ended in December 2020. The contracts were novated from Elevate to LBBD in December 2020 with a one-year extension until 31 December 2021. Therefore, the Council is now looking to procure these services directly for a further period of up to four years (three years plus one-year extension) from December 2021.</p> <p>Under the current arrangements, the Council contracts with five companies who provide this service. Going forward, it is proposed to engage two companies for all required enforcement services across the council as a compliment to the in-house enforcement team.</p> | |
| Recommendations <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree that the Council proceeds with the procurement of contracts for external Enforcement Agent services in accordance with the strategy set out in the report; and(ii) Authorise the Strategic Director of Community Solutions, in consultation with the Cabinet Member for Finance, Performance and Core Services, the Strategic Director of Law and Governance and the Managing Director, to conduct the procurement and award and enter into the contracts and all other necessary or ancillary agreements with the successful bidder(s), in accordance with the strategy set out in the report. | |

Reason(s)

To complete a procurement process so that the operational requirements for the service provision of enforcement activities including Council tax, business rates and parking debt recovery are captured under a contract. This procurement will ensure that the services can be provided with outcomes achieved which support ethical collection in line with the in-house enforcement service.'

This procurement will provide a more ethical and compliant way for the council to recover outstanding debt from those that live outside of the borough and promote closer working with the third sector to support vulnerable people who are in debt.

1. Introduction and Background

- 1.1 Since 2014 the collection of a number of Council income streams were delivered through the Council's partnership with Elevate. Those arrangements are now coming to an end and services are being brought back in-house over a phased period, completing in December 2021.
- 1.2 As part of those functions provided, Elevate contracted for the provision of debt collection services and therefore the Council will now need to procure these services directly. Procuring directly will allow services to be fully align to the Council's key priorities and can work effectively with the new in-house enforcement agent service that goes live in April 2021.
- 1.3 The in-house enforcement service will provide all enforcement services within the borough and those postcodes that are adjacent to it.
- 1.4 The report outlines the suggested approach to procuring the services that fall outside the in-house service, utilising the YPO national DPS to procure these services for a maximum period of four years commencing from December 2021.

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured

- 2.1.1 The engaged companies would supply the following services for warrants and liability orders that fall outside of the scope of work conducted by the in-house enforcement team:
 - Pre-debt verification checks of relevant cases to identify deceased and bankrupt cases where enforcement is unlikely to be achievable.
 - Debt currently in scope (Liability orders, Business Rates and Parking Debt) and any future debt that comes in scope will be managed from any service within LBBD will be passed through the Internal Enforcement Agent Service Manager to be allocated either internally, or through the external enforcement suppliers.
 - Enforcement of warrants and liability orders through to conclusion of full payment or to the end of a natural outcome aligned with specified legislation, e.g. nulla bona, part paid, sale of goods or where there is evidenced justification.

- Post visit tracing for new addresses where the customer has been identified as gone away and new data to support the enforcement process that will allow further justified activity.
- Case allocation would be all cases that fall outside of the borough (borough to include adjacent postcodes). Should the expected volume of in-house cases grow beyond the estimated levels, some cases could be given to the external companies on a temporary basis.
- Assignment or allocation of cases can be achieved:
 - Work will be allocated across 7 regions throughout England and Wales as defined by the HM Courts & Tribunals Service estate map;
 - Where results are unsuccessful the cases would be reallocated as second issue to the other company.
- The pursuit of Non-UK parking debt would not fall within the scope of this tender.

2.2 Estimated Contract Value, including the value of any uplift or extension period

2.2.1 The contract does not directly cost LBBD any money to engage the services of the enforcement companies. The enforcement companies earn their income from the fees that are charged on each case and these are set out in legislation.

2.2.2 Below is an estimate of the value the enforcement companies may collectively make over the contract term. This is estimated as it is based on the volume of cases LBBD allocates to the enforcement companies. The volume of cases may increase / decrease as it is a demand led contract.

2.2.3 The figures in the table below represent current levels of performance but the expectation would be that these values increase.

| | Council Tax | Parking |
|--|----------------------|---------------|
| Total Cases per year | 1488 | 12245 |
| Compliance stage (10%) | £11,100.00 | £91,837.00 |
| Potential value of collected debt for LBBD | £179,968.00 | £248,472 |
| Enforcement stage (16%) | £50,384.00 | £414,389.00 |
| Potential value of collected debt for LBBD | £260,224.00 | £357,962.00 |
| Total | £61,484.00 | £506,226.00 |
| Contract term 3yrs +1 | £245,936.00 | £2,024,904.00 |
| | £2,270,840.00 | |
| Total potential value of collected debt for LBBD | £4,186,504.00 | |

2.3 Duration of the contract, including any options for extension

2.3.1 Three years with the option to extend for a further year.

2.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?

2.4.1 Yes

2.5 Recommended procurement procedure and reasons for the recommendation

2.5.1 Further competition from the Yorkshire Purchasing Organisation (YPO) Enforcement Agency Services (953) Dynamic Purchasing System (DPS). There are 21 suppliers named on the DPS, the largest number of suppliers on a known DPS/Framework. Our incumbent suppliers are all named on the DPS. A DPS is similar to a framework but is open to allow suppliers to apply to be included on the DPS throughout the term the DPS is running. The DPS commenced on 1st April 2019 and expires on 31st March 2024.

2.5.2 One package of work will be issued via the DPS. LBBD will contract with the top 2 scoring suppliers. Over a set period, the IT system will allocate cases equally and fairly, including geographically, to each supplier. Allocating cases this way removes the risk of unfair allocation.

2.6 The contract delivery methodology and documentation to be adopted

2.6.1 The contract will be delivered by two separate enforcement companies. This will be from their own premises for the purposes of administration and subsequently at the specific premises of those with outstanding debts as detailed in each warrant and or liability order. The DPS terms and conditions will be used for the contracts.

2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract

2.7.1 The contract does not directly cost LBBD any money to engage the services of the enforcement companies. The enforcement companies earn their income from the fees that are charged on each case and these are set out in legislation. The benefit to LBBD is the debt that is collected and recovered through the process of utilising the Tribunals Courts and Enforcement Act 2007.

2.7.2 External enforcement companies should be able to demonstrate their approach to ethical enforcement to align with the in-house enforcement model. This would include their content and methods of communication with customers through digital options and traditional written methods. The service delivery of the companies will be required to evidence their commitment to vulnerable customers and integrated approaches to the third sector.

2.7.3 KPI's will be set for four high level areas.

- I. Collection of debt during the compliance period (the period between receiving the warrant/ liability order and an enforcement agent attending)
The additional fees at this stage are lower and gives a greater opportunity for the customer to resolve the debt.

- II. Collection of debt at the enforcement stage (where an enforcement agent has made an attendance at the premises of the customer)
- III. Referrals of the most vulnerable customers to third sector support centres.
- IV. The application of fees to cases. The purpose of this is to understand when and why additional fees have been applied allowing the identification of an ethical approach to case management.

2.8 Criteria against which the tenderers are to be selected and contract is to be awarded

- 2.8.1 10% Social Value, 90% quality. There will be no pricing evaluated as the fees and charges the Enforcement Agent applies are set by government legislation and cannot be altered.
- 2.8.2 There will be no financial charge to LBBD by the suppliers. Suppliers make their money by the fees and charges.

2.9 How the procurement will address and implement the Council's Social Value policies

- 2.9.1 10% of the potential marks awarded in the proposed evaluation criteria will review the social value benefits being offered by the bidder for the borough. We will give potential bidders access to the Council's Social Value Toolkit where more information is provided regarding the borough priorities, Social Value themes and ideas of outputs.

The evaluation process will take note of the Council's legal obligation to consider Social Value under the Public Services (Social Value) Act 2012.

2.10 Contract Management methodology to be adopted

- 2.10.1 The contract will be managed through monthly meetings with the separate enforcement companies. This will be open to the individual business areas for attendance as well. Revenues and parking. The contract will be managed by the Enforcement Agent Service Manager. Corporate Procurement will be managing the procurement process.

3. Options Appraisal

- 3.1 Option 1 – Internal Enforcement Agent Service provides the services. This option was rejected because cases can be located anywhere in England and Wales. The operational constraints would prevent the in-house team from working these cases effectively.
- 3.2 Option 2 – carry out an open tender. The option was rejected as there are known frameworks available to use that meet LBBD's requirements and with a large supplier base. Utilising a framework will reduce officer time and the procurement timelines.
- 3.3 Option 3 – utilise the CCS Debt Management Services RM6208 Framework. Rejected as there is only one supplier named on the framework.

- 3.4 Option 4 – utilise the Rotherham MBC. Rejected as the Framework ends in June 2021 and will not be extended or relet.
- 3.5 Option 5 – engage individual enforcement agents as contractors. This option was rejected because even though many enforcement agents within the industry contract to companies the appetite within the council for this approach has not been raised. Given the period of time available it would not be practical to research this option given the volume of operational need within this but will be explored in greater detail for the future.

4. Waiver

- 4.1 Not applicable.

5. Consultation

- 5.1 The proposals in this report were considered and endorsed by the Procurement Board at its meeting on 19 April 2021.

6. Corporate Procurement

Implications completed by Sam Woolvett, Corporate Procurement

- 6.1 This report outlines the intention to use the YPO DPS framework agreement as the preferred route to market running a mini competition for LBBD's specific requirements. This route to market is compliant with the Councils procurement rules and with the UK Procurement regulations.
- 6.2 Running a full open market tender would appear to be more labour intensive than the proposed route to market which on balance should result in the best overall value for money of the available options.
- 6.3 The award criteria are stipulated by the framework owners however with this agreement provision has been made to allow the customer to tailor the weighting to the specific requirement when running a mini competition.
- 6.4 Corporate Procurement will be managing the mini competition.

7. Financial Implications

Implications completed by: Nurul Alom, Finance Business Partner

- 7.1 There is no financial impact to the council's general fund as a result of this arrangement. The service provider will earn their money from fees charged directly to those in debt. This is governed by legislation. LBBD benefit from the contract on an income basis from the debt that is collected. However, there is inherent reputation risk for LBBD.

8. Legal Implications

Implications completed by Jean Nweke, Contracts & Procurement Lawyer (Law and Governance)

- 8.1 This report is seeking a decision to be made to procure external enforcement agent services from the Yorkshire Purchasing Organisation (YPO) Enforcement Agency Services (953) Dynamic Purchasing System (DPS), in accordance with the strategy set out in this report.
- 8.2 Under Regulation 34 of the Public Contracts Regulations 2015, contracting authorities may use a dynamic purchasing system for commonly used purchases the characteristics of which, as generally available on the market, meet their requirements.
- 8.3 The Council shall award the contract to the tenderer that submitted the best tender on the basis of an award criteria weighting of 10% social value and 90% quality.
- 8.4 There are no direct costs to the Council to engage the services of the enforcement agencies under the contract. However, it is estimated that the contract will have an approximate value of £2,270,840.00 in commission fees over the contract duration of three years from December 2021. There will be the option to extend the contract for one year. The contract will be based on the DPS's standard terms and conditions.
- 8.5 The proposals set out in this report would therefore appear to be legally permissible and compliant with the Council Contract rules and Procurement Contract Regulations 2015.

9. Other Implications

- 9.1 **Risk and Risk Management** – The risk to not implementing these contracts would prevent a significant volume of debt from revenues and parking being uncollected. The option of keeping the contract to only two suppliers improve the value of the contract and subsequently increases the focus on the supplied work.
- 9.2 **TUPE, other staffing and trade union implications** - The incumbent suppliers have confirmed that TUPE does not apply.
- 9.3 **Corporate Policy and Equality Impact** – An Equality Impact Assessment has been undertaken and is attached at Appendix A.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

Appendix A – Equalities Impact Assessment