
Report to: Cabinet **Date of Meeting:** 12th September 2013

Subject: Procurement Process for the Provision of Bailiff Services

Report of: Head of Corporate Finance and IT **Wards Affected:** All

Is this a Key Decision? Yes **Is it included in the Forward Plan?** Yes

Exempt/Confidential No

Purpose/Summary

This reports seeks to -

1. Outline the recommended provision of bailiff services for the recovery of debt owed to the Council.
2. To inform Cabinet of the procurement process that will be undertaken to procure new contract (s) for provision of bailiffs and debt collection services. The contract (s) will take effect from the 1st April 2014.
3. To seek the approval of Cabinet for officers to begin the process of a mini competition under the Rotherham Council bailiff and debt collection framework.

The report contains Annex A listed below for ease of reference:

Annex A – Sefton Council Bailiff Code of Conduct

Recommendation(s)

That Cabinet:

- (1) Approve the provision of bailiff and debt collection services outlined in the report, as summarised in paragraph 4 of this report.
- (2) Approve the procurement process of a mini competition under the Rotherham MBC Bailiff and Debt Collection framework agreement.
- (3) That Cabinet delegates to Head of Corporate Finance and ICT the decision on which Bailiff companies will be awarded the contract for Bailiff and Debt Collection Services and the contract for Warrants of Arrest Without Bail.
- (4) To authorise Head of Legal Services to draw up the appropriate contracts to run for a period of 3 years with annual options to review up to a maximum of 5 years.

How does the decision contribute to the Council's Corporate Objectives?

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		/	
2	Jobs and Prosperity		/	
3	Environmental Sustainability		/	
4	Health and Well-Being		/	
5	Children and Young People		/	
6	Creating Safe Communities		/	
7	Creating Inclusive Communities		/	
8	Improving the Quality of Council Services and Strengthening Local Democracy	/		

Reasons for the Recommendation:

Existing contracts are due to expire 31st March 2014.

What will it cost and how will it be financed?

(A) Revenue Costs

Bailiff costs, under current legislation, are charged to the debtor and therefore are not a direct cost to the Council.

Warrant of Arrest costs payable to the bailiff by the Council can only be passed on to the debtor in the event of a suspended prison sentence being ordered in the Magistrates Courts, a part of the Council's application for reasonable costs. Any such charges not recovered from the debtor are met from the Council's existing cost budgets.

Debt collection commission charges are payable to the Debt Collection company by the Council, as a percentage of amounts recovered. There are no charges in the event that payment is not recovered. Commission charges are met from existing debt collection budgets.

(B) Capital Costs
N/A

Implications:

N/A:

Legal The Council's Contract Procedure Rules provide that the Council may enter into existing public sector framework agreements, where it is evident that such frameworks represent the optimum solution to the Council in terms of service and cost.

Human Resources

Equality	
1. No Equality Implication	<input type="text" value="/"/>
2. Equality Implications identified and mitigated	<input type="text"/>
3. Equality Implication identified and risk remains	<input type="text"/>

Impact on Service Delivery:

The recommendations will enable increased collection of council tax, business rates, sundry debt, housing benefit overpayments and parking fines.

What consultations have taken place on the proposals and when?

The Head of Corporate Finance and ICT (FD 2513) have been consulted and any comments have been incorporated into the report.

The Head of Corporate Legal Services (LD 1818) have been consulted and any comments have been incorporated into the report.

Are there any other options available for consideration?

1. The Council could conduct an EU compliant tender exercise, approaching the whole market directly. This option however would require a much longer timescale as the tender opportunity would need to be advertised in the Official Journal of the European Union (OJEU). Further, the volume of bids submitted is unpredictable and so in addition to managing a longer advertising period officers could easily find that evaluation of bids also takes a much longer period of time. This could prove problematic as the existing contract/s expires on 31/3/2014. Therefore this option has been rejected as a high risk due to lack of flexibility.
2. The Pro 5 Purchasing consortium group has commenced a piece of work to secure an EU compliant framework for the provision of Bailiff Services. This work is headed by Eastern Shires Purchasing Organisation (ESPO); however this framework is not yet available as the procurement exercise has not yet been concluded. Waiting for the framework to be concluded could easily cause difficulties in meeting the contract renewal date of 1/4/2014.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet

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Background Papers:

None

INTRODUCTION/BACKGROUND

The use of certificated bailiffs within the Council

- 1.1 A bailiff provision is an integral part of the overall collection process for Council Tax and Business rates and contributes greatly to ever increasing collection levels for the Council. The Council uses certificated bailiffs when necessary and within appropriate legislative frameworks to collect debts owed to the Council. Bailiffs have to hold a certificate that enables them to levy distress for commercial rent, road traffic debts, council tax and business rates.
- 1.2 Before using a bailiff company to recover debt owed, the Council will always try to secure a mutually acceptable payment plan. The vast majority of bailiff activity in Sefton takes place due to debtor's refusal to engage with the Council in order to come to mutually acceptable arrangements to repay the money owed.
- 1.3 The Council currently use 4 firms of external bailiffs for collection of outstanding debts and work is allocated as follows:

Bailiff Firm	Bailiff Services: Council Tax -1 st phase Business Rates – 1 st phase Civil Parking Enforcement	Debt Collection Services	Arrest Warrant Services
Jacobs	YES	YES	YES
Equita	YES	YES	NO

Bailiff Firm	Bailiff Service: Council Tax -2nd phase Business Rates – 2nd phase
Newlyn	YES
Rosendale's	YES

- 1.4 Contracts have been renewed annually, and the maximum 5-year period ends in March 2014.

2 Performance Management

- 2.1 Regular meetings are held with all the bailiff companies appointed at which any performance issues are discussed and addressed.
- 2.2 Statistic on the collection performance of the companies are compiled monthly and shared with all the bailiff companies. This ensures everyone is aware of how each company is performing and the aim is to drive up collection performance.
- 2.3 In addition to the performance reports, individual performance is also managed by complaints monitoring. This can include the legal position, the conduct and behaviours of the bailiff and any associated costs. If there are complaints about bailiff activity these are coordinated and managed by the Council in accordance with the Council's policies.

3 **Legal Position**

3.1 **Council Tax and Business Rate debt**

3.2 The use of bailiffs for Council Tax and Business Rates recovery is covered by sections within the Local Government Finance Acts.

3.3 Once the Council has obtained a liability order from the Magistrates Court in respect of unpaid Council Tax or Business Rates it has the power to use other recovery methods to collect debt owed. This includes bailiff activity.

3.4 Before the recovery process can be escalated to include committal to prison action for non-payment of Council Tax or Business Rates debts, bailiff action must have been attempted and a certificate obtained from the bailiff to demonstrate there were no goods or insufficient goods to pay the debt. In reality, this means that for Council Tax, in the vast majority of cases where details of who the debtor works for are not known, and the debtor still does not engage with the Council to make arrangements to clear the debt, cases are passed to bailiffs for collection a minimum of 14 days after the date of the liability order court hearing.

3.5 For Business Rates, once the reminders and the summons have been issued and a liability order obtained from the Magistrates court, further attempts are made to enter into payment arrangements. Enforcement options are limited for the Council and therefore bailiffs is the default method for those who do not engage with the Council. Ratepayers are given ample opportunity to demonstrate a willingness and ability to pay prior to the debt being referred to a bailiff for collection.

3.6 **Civil Parking enforcement**

3.7 Parking Service issues Penalty Charge Notice (PCNs) for contraventions of Parking Regulations, using powers contained within the following regulations:

- The Traffic Management Act 2004

3.8 **Future Legislation on Bailiffs**

3.9 The Ministry of Justice are in the process of issuing new regulations regarding bailiffs, changes are due April 2014. These regulations will include additional training and competency tests for individual bailiffs and there will be a new fee structure, with more fixed fees.

4 **Bailiff Service Provision**

4.1 The contractor (s) appointed to supply bailiff services and debt collection to the Council must conform to the Rotherham specification and provide services in accordance with the conditions set out in the specification for the following services:

- Council tax
- Business rates
- Overpayments of housing benefit
- Sundry debt collection
- Civil parking enforcement
- Warrants of arrest – this relates to committal proceedings where debtors fail to attend a court hearing.

- 4.2 Attached to this report (Appendix A) is a copy of Sefton Bailiff Code of Conduct and this will form part of the new contract with the bailiff contractor (s). This covers required performance expectations and customer service standards. Bailiffs are instructed to stop any action where the customer maybe vulnerable. Examples of vulnerable customers are in the Bailiff Code of Conduct.
- 4.3 The contractor (s) must hold corporate membership of the Civil Enforcement Association. This includes guidelines under which their members operate.

5 **Procurement**

- 5.1 It is proposed that the procurement process will include a mini competition exercise conducted under the Rotherham Council EU Compliant framework for bailiff and debt collection services. The mini competition will be managed by the Council's Procurement Unit and will be published solely to the six Rotherham Council framework providers, and managed electronically within the North West Opportunities Portal, 'The Chest' to ensure auditability.
- 5.2 Rotherham MBC undertook the OJEU exercise for debt collection and bailiff services. The framework complies with the Council's Constitution (chapter 11) contract procedure rules. Any Council in the Municipal Journal can access the Rotherham framework agreement, and also hold a mini competition of the bailiff companies who were selected for the framework agreement.
- 5.3 Details on the framework are published – <http://www.publictenders.net/node/1817544>
- 5.4 The Rotherham framework procurement process undertaken was extensive including interviews with the providers. The following six service providers are available through the Rotherham framework:
- Bristow and Sutor
 - Jacobs Certificated Bailiffs
 - Phoenix Commercial Collections
 - Equita ltd
 - Newlyn PLC
 - Rossendales Ltd
- 5.5 The evaluation process by the working group will determine if all six companies are selected for interview.
- 5.6 The contract will be for a 3 year period in the first instance, with annual options to renew up to a maximum of 5 years, in accordance with the tender specification which includes satisfactory performance.

6. **Award Criteria**

- 6.1 The contract will be awarded utilising a weighted scoring system of:
- Price value - 30%
 - Quality of Service (includes interview) – 70%. The interview process will explore how the bailiff companies differentiate between those who 'won't pay' and those who 'can't pay'. Also the advice and guidance they give to vulnerable persons.

6.2 The mini tender evaluation criteria will include under the priority headings:

Quality of Service -

- Experience, quality and expertise
- Administration – including timescales for handling cases, turnaround time for queries and amendments and transparency of information.
- Complaint handling – including number of upheld complaints as % of numbers received, procedures in place to monitor outcomes and evidence of actions taken from that process.
- Innovation
- Bailiff coverage
- Software systems and access

Price Value –

- Price value – including commission charged on debt collection, cost of executing a warrant of arrest and details of any other fees to be charged to the Council or debtor – not including statutory costs incurred by debtor.
- Collection performance – including evidence of current and past collection performance for existing contracts.

6.3 The procurement process will be completed by February 2014, with the contract to be awarded March 2014, with a start date of 1st April 2014.