

Report of: Executive Member for Finance, Planning and Resources

Meeting of: Executive

Date: 11 January 2024

Ward[s]: All Wards

Subject: Procurement Strategy for Council Tax and Business Rates Collection Services

1. Synopsis

- 1.1. This report seeks pre-tender approval for the procurement strategy for the Council Tax and Business Rates Collection Services in accordance with Rule 2.8 of the Council's Procurement Rules.
- 1.2. This report seeks approval to use an existing dynamic purchasing system (DPS) operated by Yorkshire Purchasing Organisation (YPO) to procure the services of four collection services contractors (known as enforcement agents) for the collection of unpaid council tax and business rates.

2. Recommendations

- 2.1. To approve the procurement strategy for Council Tax and Business Rates Collection Services as outlined in this report.
- 2.2. To delegate authority to award the contracts to the Corporate Director of Resources following consultation with the Executive Member for Finance, Planning and Performance.

3. Background

3.1. Nature of the service

- 3.1.1. The Council's Revenues Service is seeking to procure enforcement agents to recover unpaid council tax and business rates. This is one of the final stages of the collection process when all other avenues have been exhausted yet the charge remains unpaid.
- 3.1.2. Approximately 10% of unpaid charges reach this stage of the process, of which up to approximately 30% are recovered. After sending several statutory notices to residents or businesses who are liable to pay council tax or business rates, if the charge remains unpaid and residents or businesses have not engaged, nor made payments, the Council will obtain a liability order via the Magistrates Court for the unpaid sums. The Council will attempt to engage residents and businesses after this process and if unsuccessful such cases can legally be passed to an enforcement agent for collection.
- 3.1.3. If there is evidence of hardship, vulnerability or council tax support claimant, the Council will take this into account and work with internal partners such as the Income Maximisation Team with the intention of providing support.
- 3.1.4. The amount of council tax and business rates debt recovered from the current collection service contract is £5.3m per annum based on figures from 2022/23.
- 3.1.5. On receipt of cases from the Council the enforcement agent will engage with the resident or business via letter in accordance with Government guidelines under the "Taking Control of Goods (Fees) Regulations 2014". The resident or business will be given the opportunity to set up an affordable payment plan via telephone to a contact centre, a web or portal. In the event the resident or business does not engage or fails to meet the payment plan commitments, an enforcement agent will then visit the resident or business known address and attempt to agree a repayment plan and/or seek to record goods owned by the resident or business as security. At every stage of the process, the enforcement agent will assess the resident or business to determine whether they are of a vulnerable status.
- 3.1.6. There are many reasons why residents or businesses are unable to pay. These could include a change in personal circumstances, the debt rising high due to multiple debts, and people who ignore the problem and hope it goes away. There are also cases where an individual has deliberately tried to avoid payment and has allowed the case to escalate as a point of principle. Each case however is unique, and enforcement agents have in place robust, well tested policy, and procedures to help the vulnerable, as well as ensuring payment is made.

3.1.7. Enforcement Agents have trained welfare officers who can assist in cases of identified hardship and vulnerability. Enforcement Agents will suggest to residents to contact a Debt Advice Agency [i.e., Citizens Advice Bureau etc].

3.1.8. Collections must be conducted in a fair, transparent, and legally compliant manner and in accordance with Government rules under the "Taking Control of Goods (Fees) Regulations 2014". Islington officers will manage the performance of the enforcement agents to increase and maintain consistent recovery rates for this contract. There will be performance indicators set for collection rates which are monitored and reviewed at monthly performance meetings.

3.2. **Estimated value**

3.2.1. The total estimated turnover of the contracts for all enforcement agents is £5.544m per annum, £5m being income to the Council and £0.544m recuperated in fees by enforcement agents. This is based on figures from 2022/23.

3.2.2. There is no cost to the Council with enforcement agents being subject to a fixed fee structure implemented by the government. Fees are currently set at £75 per letter sent at compliance stage, and £235 per visit at enforcement stage. The new contracts will aim to improve pre-debt cleansing as well as reducing the age of debt creating an income stream for the Council against unpaid council tax and business rates each year.

3.2.3. The proposed maximum term of the contract is four years, an initial period of three years plus an option to extend for up to a further one year. The estimated total turnover of all contracts is £22.176m based on historical data from the last two years and factoring in the potential impact of the cost of living crisis.

3.3. **Timetable**

3.3.1. January 2024 – the Executive to approve the procurement strategy
January 2024 – further competition under YPO Enforcement Agency Services
DPS - 953
March 2024 – Approval to award the contracts
March 2024 – new contracts go live

3.3.2. Whilst there are no statutory deadlines, it is good practice for local authorities to act swiftly once the court grants liability orders for unpaid council tax and business rates. This mitigates any potential criticism from the ombudsman and reduces pressure on the Council's bad debt provision.

3.3.3. Internal consultation has been held with legal and procurement.

3.4. **Options appraisal**

3.4.1. The following options have been considered:

- Deliver the service in-house
- Do nothing
- Procure via advertising a competitive tender
- Procure via a further competition using an existing DPS.

3.4.2. The Council seeks to deliver services in-house wherever we reasonably can. Islington's Revenue Service does not currently have the capacity or relevant training, licences, and certificates to be able to deliver this service. Individuals providing these services must be registered enforcement officers and/or high court enforcement officers and comply with The Taking Control of Goods Regulations 2013, Taking Control of Goods Fees) regulations 2014 and The Certification of Enforcement Agents Regulations 2014 (including any amendments).

3.4.3. The collection of council tax and business rates provides the council with an important revenue stream. To do nothing would mean this income would be lost.

3.4.4. There is a known market for enforcement agents and due to the total value of the contracts it is anticipated that there could be significant interest in an advertised opportunity. This means the process could be time consuming and resource intensive.

3.4.5. The YPO Enforcement Agency Services DPS – 953 offers a simple, low cost efficient and effective method of procurement. It is anticipated that using the DPS will reduce procurement costs and time to conclude the process. The DPS assures supplier standards with all providers appointed onto the DPS having been prequalified regarding their general suitability. There are currently 24 providers on the DPS all of which can provide council tax and business rates enforcement which will facilitate competition to ensure best value.

3.4.6. There are no benefits from a collaborative approach with other local authorities as the fees are set so there are no opportunities for economies of scale.

3.4.7. Conducting a further competition exercise under the DPS is the recommended option.

3.5. **Key Considerations**

3.5.1. We will include a requirement to provide social value which may include initiatives such as, staff training on areas within the sector, and surgeries for residents and businesses that will provide information on debt management. Social value will be 50% of the evaluation criteria.

- 3.5.2. The London Living Wage will apply for enforcement agents recovering debt within the borough. The National Living Wage will apply for enforcement agents recovering debts outside of the borough.
- 3.5.3. Economic and social sustainability will be managed by way of robust vulnerable customer management offering achievable and affordable payment plans via web portal and app. Vulnerable residents will be given the opportunity to seek independent advice before cases proceed to recovery. When our residents make contact for the first time, the enforcement agent will seek to identify whether a resident is vulnerable which may involve ongoing mental illness/severe depression, allegations of attempted suicide, long standing health conditions, learning disabilities, terminally ill, recently bereaved, elderly (where the person is unable to deal with their affairs), people with severe physical or mental disabilities, where the resident or partner is in the final weeks of pregnancy (to be reviewed after the birth), where severe social deprivation is evident or communication difficulties where an interpreter would be useful (profound deafness, blindness or language difficulties).
- 3.5.4. There is no TUPE, pensions, or staffing implications. The standard practice at contract hand-over to a new contractor, the council would stop passing cases over to the incumbent contractors one month prior to the end of the contract term, to allow for a seamless transition to the new contractors.
- 3.6. **Evaluation**
- 3.6.1. Applicable charges are set out in law therefore evaluation of the tender responses will be based upon 100% quality.
- 3.6.2. The evaluation criteria for the further competition from the YPO Enforcement Agency Services DPS – 953 will be:
- 50% social value including environmental sustainability
 - 25% service delivery, maximising collections/recovery rates
 - 10% dealing with vulnerable customers
 - 10% innovation including technology
 - 5% continuous improvement, complaint handling and training
- 3.7. **Business risks**
- 3.7.1. The use of Enforcement Agents to recover council tax and business rates is a proven method within the sector to maintain and/or enhance good collection against residents or businesses who avoid paying their tax and to generate more income as the number of these caseloads increases. New contracts require a period transition to realise optimum recovery rates. There is a small risk that the current recovery rates will drop during this period which will affect income for the Authority, however, this risk is considered low.

- 3.8. The Employment Relations Act 1999 [Blacklist] Regulations 2010 explicitly prohibit the compilation, use, sale, or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.
- 3.9. The following relevant information is required to be specifically approved in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1. Nature of the service	Council Tax and Business Rates Recovery Services
2. Estimated value	See section 3.2 under “Estimated Value” reflecting estimated value of contract over the proposed four-year term
3. Timetable	See section 3.3 under “Timetable”
4. Options appraisal for tender procedure including consideration of collaboration opportunities	See section 3.4 under “Options Appraisal” recommending competition under a framework
5. Consideration of: <ul style="list-style-type: none"> • Social benefit clauses; • London Living Wage; • Best value; • TUPE, pensions, and other staffing implications 	See section 3.5 under Key Considerations
6. Award criteria	See section 3.6 under Evaluation

7. Any business risks associated with entering the contract	See 3.7
8. Any other relevant financial, legal, or other considerations.	None

4. Implications

4.1. Financial Implications

- 4.1.1. The Council Tax and Business Rates Collection Services Concession Contract enables the council to recuperate further income into the Collection Fund.
- 4.1.2. The cost of recuperation is borne by the resident or business to which the debt has accumulated and therefore is at no additional cost to the council. It is estimated that this will total £0.544m per annum.
- 4.1.3. Based upon current performance it is estimated that the contract will provide an estimated revenue income stream of £5.000m per annum over the four years of the contract.
- 4.1.4. Therefore, the estimated annual value of the contract is £5.544m. The estimated total value over the maximum four-year period of the contract is £22.176m.
- 4.1.5. There are no LLW (London Living Wage) implications as most of the enforcement agents will operate outside of London and/or be self- employed. Those within London that are direct employees will receive LLW.
- 4.1.6. There is no TUPE, staffing or other implications as this is a concession contract.

4.2. Legal Implications

- 4.2.1. The council has power to enter into the proposed contracts under section 111 of the Local Government Act 1972 and section 1 of the Local Government [Contracts] Act 1997, which enable the council to carry out any activity that is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, and to enter contracts accordingly.
- 4.2.2. The proposed contract is Concession Contract subject to the Concession Contracts Regulations 2016 [“the Regulations”] as the total contract value, based on 4 years’ turnover, of £20m plus VAT exceeds the current relevant statutory threshold of £4m plus VAT [assuming the VAT rate at 20%].

- 4.2.3. The procurement route of a mini competition under YPO framework [Enforcement Agency Services 953] is a compliant route to market under the Regulations and under the council's Procurement Rules.
- 4.2.4. Framework YPO 953 is valid from 1st April 2019 to 31st March 2024 and call-off contracts based on the Framework can validly run for up to 4 years if the contracts commence before the Framework itself expires.
- 4.2.5. The value of the proposed contract is above £2m revenue and therefore above the delegated power of the Corporate Director to award under Procurement Rule 18.1.1, unless the Executive grants express delegated power to the Corporate Director for Resources in consultation with the Executive Member for Finance, Planning and Performance pursuant to the recommendation in this report.
- 4.2.6. This is a Key Decision to be taken by the Executive as the Proper Officer has determined that the decision is financially significant.
- 4.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**
- 4.3.1. There are no implications in this regard.
- 4.4. **Equalities Impact Assessment**
- 4.4.1. The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it [section 149 Equality Act 2010]. The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life.
- 4.4.2. The council must have due regard to the need to tackle prejudice and promote understanding. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it [section 149 Equality Act 2010].
- 4.4.3. The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

4.4.4. Consideration have been given to regarding EIA (Equality Impact Assessment) under section 3.5.5 and it is recognised that the continued use of enforcement agents to recovery council tax and business rates will not negatively impact anyone with protected characteristics. Those identifying as vulnerable will be given additional support to manage payments or arrange a payment plan. The Council's Equalities Impact Assessment Screening Tool was completed on 10 October 2023. The full assessment is appended to this report.

5. Conclusion and reasons for recommendations

5.1. This report recommends agreement for the procurement strategy for the Council Tax and Business Rates Recovery Services. To ensure best value, a maximum of four enforcement agencies will be appointed via a further competition process to deliver these services. These services provide an important revenue stream for the Council whilst also ensuring residents, including vulnerable residents, are supported on matters related to debt management.

Appendices:

- Appendix 1 EA (Enforcement Agent) fees in table
- Appendix 2 Equalities Impact Assessment

Background papers:

- None

Final report clearance:

Authorised by: Executive Member for Finance, Planning and Resources

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