

Public Accounts Committee			
Report Title	Update on saving O3 - the implementation of an internal Council Enforcement Agency for the collection of debt		
Ward	All	Item No.	7
Contributors	Head of Public Services		
Class	Part 1 (open)	Date	20 April 2016

1. Purpose

- 1.1 To update on saving O3 agreed on 5 January 2015 to implement an internal Council Enforcement Agency for the collection of debt.

2. Executive summary

- 2.1 For many years the Council used external contractors to deliver the bailiff service. In April 2014 new legislation changed the way the enforcement industry was required to work, introduced a new fixed fee regime and changed the name of bailiffs to enforcement agents.
- 2.2 The Council was concerned about the performance of its external bailiff contractors and identified an opportunity to improve the performance, introduce a more sensitive approach in response to recent welfare reforms and generate surplus income. A 'saving' proposal was drawn up and subsequently agreed.
- 2.3 The new internal enforcement agency was created at the end of 2014/15 to improve collection, improve the quality of information collected, adopt a more sensitive approach where appropriate and generate a surplus income.
- 2.4 After one full financial year the service has improved the enforcement collection rate when compared to our external contractor for the year prior, increased the amount of information used to maintain the database, accepted more long term payment plans where appropriate, reduced the number of complaints and generated a surplus income of £200k.
- 2.5 The success of the service has led to it being developed further to take on more work and generate more surplus income.

3. Recommendations

- 3.1 Note the progress to date.

4. Policy context

- 4.1 One of the primary functions of the Council is to promote the social, economic and environmental wellbeing of the borough and its people. In discharging this important role the Council has a specific duty to safeguard the most vulnerable from harm and to regulate access to public services and to provide social protection for those that might otherwise be put at risk.
- 4.2 As Council funding is provided through public resources (grants from central Government; Business Rates and Council Tax) the local authority must also demonstrate both responsibility and accountability in the stewardship of public resources.

- 4.3 The overarching policy and decision making framework for the discharge of the Council's many functions and duties is Lewisham's Sustainable Community Strategy. The Strategy contains two overarching principles which are:
- reducing inequality – narrowing the gap in outcomes; and
 - delivering together efficiently, effectively and equitably – ensuring that all citizens have appropriate access to and choice of high quality local services.
- 4.4 Also contained within this overarching policy framework are the Council's ten priorities. These priorities describe the specific contribution that the local authority will make to the delivery of the Sustainable Community Strategy.

5. Background

- 5.1 For over 20 years the Council has used external bailiff companies to collect outstanding Council Tax and Business Rates. Originally bailiffs were paid a fee by the Council to do this work but since the introduction of Council Tax the bailiffs were paid nothing by the Council as they generated their income/profit from the fees they charged the debtor.
- 5.2 The consultation paper 'Transforming bailiff action' was published in February 2012 and made 19 separate recommendations, bringing the bailiff sector under a single piece of legislation. Following the consultation, the government published its response in January 2013 resulting in the implementation of Part 3 of the Tribunals Court & Enforcement Act which came into force in April 2014.
- 5.3 The new legislation introduced major changes to the enforcement industry to make it simpler to understand and more transparent. The reforms introduced a new fixed fee regime for debtors and changed the name of bailiffs to enforcement agents. The reforms placed more work on local authorities prior to a debt being passed to an enforcement agent and a potential for enforcement agents to generate substantial income from the new fixed fee regime.
- 5.4 In addition to the changes in legislation, the Council had been concerned about the performance of the external bailiffs. The recent Welfare Reforms meant the Council was having to collect debts from those struggling to pay and a more 'sensitive' approach was required with this cohort of debtors (for example accepting longer term repayment plans). The Council was also concerned with the bailiffs general performance and felt a more focussed, Lewisham borough only, approach would result in better collection and better information coming back to the Council.
- 5.5 Officers investigated the costs, risks, issues and potential income from the creation of an internal enforcement agency. The investigation found the following objectives could be achieved by creating an internal enforcement agency:
- improved debt collection
 - the introduction of a more sensitive approach to collection
 - better feedback from enforcement agents on debtors circumstances
 - surplus income
- 5.6 On the basis of the findings a 2015/16 savings proposals (reference O3) was put forward. The saving was considered by Mayor and Cabinet on 12 November 2014 and the Mayor delegated the decision to the Executive Director for Customer Service. On 5 January 2015 the Executive Director for Customer Services agreed the saving proposal to generate a surplus income in 2015/16 of £400K with a further increase in this of £200K in 2016/17.

- 5.7 This report summarises the implementation and performance of the internal enforcement agency to date.

6. Implementation

- 6.1 The service set about the creation of the in-house team, initially calculating the staff requirements based on the historic caseload data referred to the external bailiffs over the previous 3 years. Recruitment to the new job roles followed for an initial fixed term period of 18 months; an Enforcement Agent manager, 5 certificated enforcement agents responsible doorstep collection and 4 enforcement support officers responsible for; incoming telephone calls, correspondence and updating & maintaining customer accounts.
- 6.2 A selection of computer systems with the capability to manage the enforcement agent's caseload were reviewed. The service procured the Onestep System which is currently the market leader used by the private sector.
- 6.3 The service was also required to develop extensive and robust procedures for the team owing to the nature of the work. Equipment was purchased and/or hired to ensure the team could function in accordance with the new legislation and was capable of working in direct competition with external contractors. This included; vehicles, tracker devices, fuel costs, health & safety equipment and training etc.
- 6.4 The service retained a number of external Enforcement Agency arrangements to deal with debtors who had moved outside of the borough, other specific cases and the management of peaks in workload.

7. Performance

- 7.1 The team has now completed its first full financial year of operation and it is evident that the initial objectives for creating the service are being realised. The entire collection process has been consolidated within the Revenues service with; enforcement agents, enforcement agent support officers, council tax and business rates staff sharing invaluable information first hand on individual debtors.
- 7.2 The quality of data held has improved as the enforcement agents are able to pass on change of occupancy details, identify debtors who may qualify for assistance via the Council Tax Reduction Scheme and other exemptions thus reducing their debt.
- 7.3 The recorded exchange of data between the enforcement agency and the council tax team shows that over 3,400 liability enquiries have been raised with approximately 595 correspondence items and 44 payment enquiries logged. This information could have been lost were it not for the enforcement agency manager and council tax manager setting up the lines of communication to facilitate the dissemination of this information.
- 7.4 The service has seen speedier responses to queries thus reducing resolution times. In the year prior to the introduction of the service the number of complaints was 62, of which 6 were upheld. This has subsequently reduced to 13 for the current financial year 2015/16 with 1 upheld.
- 7.5 The enforcement agents are able to identify vulnerable debtors who need to be dealt with according to their specific needs. Where appropriate they have correctly refrained from applying enforcement fees and have instead taken time to ascertain what assistance can be given, making realistic payment plans to prevent further indebtedness. The enforcement agents take pride in working for the service and are aware that they are the 'face' of the Council and the only point of contact for many residents.

8. Caseload referral and collection success

- 8.1 As mentioned at 5.5 previously, the introduction of the enforcement agency had four key objectives the final two being; improved debt collection and surplus income.
- 8.2 Debt collection has improved via the new enforcement agency when compared to the previous external bailiffs. In addition, the in-house team has generated surplus income via the fixed fee regime, fees that would otherwise have become profit for the private enforcement agencies previously contracted to the Council.
- 8.3 Moreover, the team has secured a substantial number of arrangements with customers unable to repay their debt immediately. Payment arrangements are agreed with debtors over a period of 3 to 12 months or longer in exceptional cases.
- 8.4 The following tables set out the cases referred to Lewisham's enforcement agency since April 2015 and the collection success to date for debt and fees. Appendix 1 sets out the schedule of fees charged as set out in the legislation.

Apr 15 to Mar 16	No. of cases	Value	Collected*	%
Council Tax	17,212	£10,864,788	£2,280,272	21%
Business Rates	225	£625,756	£104,911	17%
Total	17,437	£11,490,544	£2,385,183	21%

Apr 15 to Mar 16	Value	Collected*	%
Council Tax	£3,357,014	£691,718	21%
Business Rates	£72,088	£12,227	17%
Total	£3,429,102	£703,945	21%

*Includes payments on arrangement

- 8.5 It is difficult to compare performance on fee income and the surplus/profit generated as the Council did not have access to this from the external bailiffs. However, they were required to provide debt collection performance information. The following table shows the final cases referred to the private sector prior to the new regime (Lewisham used 4 external companies in parallel) and their 'in-year' performance. This shows that Lewisham is outperforming the external bailiffs.

Total cases referred to external bailiffs	Value of debt referred	Debt repaid	Percentage of debt repaid
19,678	£15,234,249	£1,973,957	12.96%

9. Development of the service

- 9.1 As with any new venture an initial framework was established at the commencement of the project, but as new events and challenges presented themselves the service responded and adapted, creating new opportunities to improve the service and debt collection methods.
- 9.2 The service has learnt a great deal during the first year and seized opportunities to improve collection, for example the introduction of a texting service to debtors

advising them of their outstanding debt which includes a link to the payment page on the Council's website to make payment.

- 9.3 This service will be further developed in conjunction with TelSolutions allowing the enforcement agents to fine-tune their visits to customers who they know are at home, as a result of the smart technology linked to the text message the customer receives.
- 9.4 Three additional staff have been recruited over and above the original compliment to further improve debt collection and raise additional income for the Council rather than private enforcement agencies.

10. Conclusion

- 10.1 Establishing and perfecting a strong internal team is a gradual process and the results thus far are extremely promising, this is endorsed by the audit conducted by Mazars in February 2016 which gave an assurance level of Substantial.
- 10.2 The collection methodology adopted by the internal team is not focused on fee maximisation by putting intense pressure on debtors to pay in full immediately, or within very short timescales, as this can have negative consequences, such as increased levels of complaints and a disproportionate number of cases returned as unsuccessful. Whilst collecting the debt owed in full promptly remains the primary objective, the enforcement agents ensure they enter into realistic arrangements, when required, to ensure the debtor follows through with the arrangement to its conclusion. In addition, the agents are providing the council tax and business rates teams with valuable information about the debtor and helping, in some instances to reduce their debt.
- 10.3 The internal team is now well established, has outperformed the previous bailiff companies used by the Council on debt collection and made a surplus in the first year.

11. Financial implications

- 11.1 Current projections indicate that income collected for 2015/16 will fall short of the net income target of £400k by £200k. At the establishment of the service, it was an optimistic target for its first year of operation although it should be noted that income still exceeded costs by £200k and that this is income that the Council wouldn't otherwise have received under the previous arrangements.
- 11.2 The net surplus target for 2016/17 is £600k, an increase of £200k. The bedding in of the service, further action being taking and additional enforcement staff should increase the surplus and potentially make this target achievable.

12. Legal implications

- 12.1 On 6th April 2014, the Taking Control of goods Regulations 2013, the Taking Control of Goods (Fees) Regulations 2014 and the Certification of Enforcement Agent Regulations 2014 came into force, all made pursuant to the Tribunals, Courts and Enforcement Act.
- 12.2 There is, as a result of the changes brought into force from that date, a simple fixed fee structure.
- 12.3 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 12.4 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - 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.
- 12.5 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 12.6 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 12.7 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
 2. Meeting the equality duty in policy and decision-making
 3. Engagement and the equality duty
 4. Equality objectives and the equality duty
 5. Equality information and the equality duty
- 12.8 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>
- 13. Crime and disorder implications**
- 13.1 There are no direct crime and disorder implications arising from this report.
- 14. Equalities implications**
- 14.1 Customers experience an improved level of service as the Council is better at identifying and dealing with vulnerable cases rather than external agencies.
- 15. Environmental implications**
- 15.1 There are no environmental implications arising from this report.

16. Background papers and report author

- 16.1 If you require further information about this report please contact Ralph Wilkinson, Head of Public Services, on 020 8314 6040.

Fees recoverable under Regulation 4 of the Taking Control of Goods (Fees) Regulations 2014

Fee Stage	Fixed Fee	Percentage fee (regulation 7): Percentage of sum to be recovered where exceeding £1,500
Compliance stage	£75.00	0%
Enforcement stage	£235.00	7.50%
Sale or disposal stage	£110.00	7.50%