



**Mayor and Cabinet**

**Report title: Approval to procure the appointment of external Enforcement Agents for collection of Council Tax and Business Rates**

**Date:** 29 January 2024

**Key Decision:** Yes

**Class:** Part 1

**Ward(s) affected:** Borough wide

**Contributors:** Mick Lear, Head of Revenues and Benefits, Senior Lawyer, Finance Strategic Business Partner

## Outline and recommendations

This report sets out the strategy to procure the appointment of external Enforcement Agents for collection of Council Tax and Business Rates. The estimated total value of the contract is £1,995,000. This contract is known as a concession contract which is where the contractor is paid through a third party and not the Council.

It is recommended that the Mayor and Cabinet:

- Approve the procurement of three external Enforcement Agents for collection of Council Tax and Business Rates. Each contract will be for 3 years, with an option to extend the contract for up to a further 2 years. The combined estimated value of the 3 contracts is £1,995,000.
- Approve the 3-month extension of the Council's current contracts with Newlyns, Equita and Ross and Roberts, who deliver service of collection of Council Tax and Business Rates. This will allow officers to run a procurement process through a mini-competition via the enhanced CCS Framework and then mobilise the contract. The combined value of these extensions across the 3 contracts is £85,000.
- Approve the use of the Crown Commercial Service (CCS) framework agreement RM6226 Debt Resolution Services, Lot 5: Enforcement Services, to procure this service.
- Approve the award of three contracts to the preferred service providers for the provision of Enforcement Agents for collection of Council Tax and Business Rates. The total contract value of £1,995,000 will be split among the selected service providers, provided the amount remains within authorised limits. It is not possible to project the costs for each external Enforcement Agency as this is dependant on the number and value of cases referred for collection and the performance of each agency.
- Delegate authority to select the three preferred service providers following the outcome of this process to the Executive Director for Corporate Resources (in consultation with the Director of Law and Corporate Governance and the Head of Revenues and Benefits) in accordance with the selection and award criteria published in the tender documentation and agree final form of contract.

## Timeline of engagement and decision-making

The current contract is with a number of bailiffs, these being Newlyns, Equita and Ross and Roberts. The current contract expires in December 2024.

### 1. Summary

- 1.1. External Enforcement Agents are employed to collect overdue council tax and business rates. They routinely undertake out of borough cases and act as a secondary agency where our own in-house enforcement agents (EAs) have been

unable to recovery debts. Before these debts are referred to EAs, it is proposed to undertake credit reference checks on the tax-payers to ascertain the prospects of their being able to make payment and the case will only be transferred where there is evidence they are able to pay ie that the debtor is more of a “won’t pay” case rather than a “can’t pay”. By doing so, we will be avoiding any unnecessary action being taken against tax payers who are clearly unable to pay the debt and alternative arrangements will be considered through personal engagement to try and consider longer-term arrangements to clear the debt.

- 1.2. This report seeks the approval of M&C for the procurement of external suppliers for the provision of EAs.
- 1.3. It is anticipated that the new contract will be for an initial period of three years, with the option to extend for a further two years with an estimated total value £1,995,000. The total contract value will be split among the selected providers. It is not possible to project the costs for each external Enforcement Agency as this is dependant on the number and value of cases referred for collection and the performance of each agency.
- 1.4. We are unable to determine what the contractor collects as a result of their actions. We only have retrospective information that we can refer to and looking at the available information, the 3<sup>rd</sup> parties collect somewhere in the region of £399k pa.
- 1.5. Bailiff companies have different stream of income including council Tax and business rate recovery on behalf of Local Government. These are somewhat steady streams of income but probably only approximately 30% of their income. Other oncome streams would include the following;
  - Commercial Rent recovery on behalf of Landlords – Landlords can instruct Bailiffs without the need of going into Court, this is under the CRAR regulations – and the debtor pays the fees;
  - Forfeitures – Forfeit of the lease on behalf of Commercial Landlords – fixed fees paid by Landlord;
  - Parking – recovery of the parking tickets on behalf of LA’s, TFL etc and the debtor pays fees,
- 1.6. The majority of enforcement agent companies are also registered as debt collection companies, working on commission for commercial companies and attracting commission on amounts recovered which is anything from 15 - 30% of the outstanding debt.
- 1.7. There is no cost to the Council – No payments are made and the EAs are funded by raising fees at the compliance, enforcement and removal sale stages. The EA companies cannot raise fees without a liability order from the Council.

## **2. Recommendations**

- 2.1. It is recommended that the Mayor and Cabinet:
  - Approve the procurement of three external Enforcement Agents for collection of Council Tax and Business Rates. Each contract will be for 3 years, with an option to extend the contract for up to a further 2 years. The combined estimated value of the 3 contracts is £1,995,000.
  - Approve the 3-month extension of the Council’s current contracts with Newlyns, Equita and Ross and Roberts, who deliver service of collection of Council Tax and Business Rates. This will allow officers to run a procurement process through a mini-competition via the enhanced CCS Framework and then mobilise the contract. The combined value

of these extensions across the 3 contracts is £85,000.

- Approve the use of the Crown Commercial Service (CCS) framework agreement RM6226 Debt Resolution Services, Lot 5: Enforcement Services, to procure this service.
- Approve the award the three contracts to the preferred service providers for the provision of Enforcement Agents for collection of Council Tax and Business Rates. The total contract value of £1,995,000 will be split among the selected service providers, provided the amount remains within authorised limits. It is not possible to project the costs for each external Enforcement Agency as this is dependant on the number and value of cases referred for collection and the performance of each agency.
- Delegate authority to select the three preferred service providers following the outcome of this process to Executive Director for Corporate Resources (in consultation with Director of Law and Corporate Governance and the Head of Revenues and Benefits) in accordance with the selection and award criteria published in the tender documentation and agree final form of contract.

### 3. Policy Context

3.1. This report aligns with Lewisham's Corporate Priorities, as set out in the Council's Corporate Strategy (2022-2026):

- Cleaner and greener
- A strong local economy
- Quality housing
- Cleaner and greener
- Children and Young People
- Safer Communities
- Open Lewisham
- Health and Wellbeing

3.2. In particular, this report is closely aligned to priority: "A strong local economy".

3.3. Work continues to try and improve the financial wellbeing of residents despite the cost of living crisis. Making improvements to their income and financial position by helping them with financial support income maximisation and improving debt management / awareness will ensure they are better off and more able to pay whatever liabilities they have – including council tax and business rates – which will in turn help the Council to provide essential services for the wider community.

3.4. The procurement of a new external supplier for the provision of external debt enforcement will support the delivery of the council's strategic and organisational objectives by:

- Reducing costs by directing resources where they will deliver the maximum benefit.
- Seeking value for money in the market by using further competition
- Seeking an efficient supplier to support legislative compliance.
- To promote collaborative approaches to procurement with the public sector and other bodies

### 4. Background

4.1. Council tax and business rate liabilities make up a significant proportion of the Council's income. There are around 135,000 domestic dwellings with a potential £186m

council tax to be collected. There are around 6,300 businesses in Lewisham with around £60m of business rates being collectable. The current process is that if a tax payer fails to comply with 2 consecutive instalments, they will receive a court summons. If they still fail to make a payment and the court hearing goes ahead, the Council will be asking the court to provide us with a liability order. Once we have a liability order for a debt, we have a number of options that we can impose against a debtor including recovery via an enforcement officer. However, not all cases are referred to EAs and we still offer opportunities for tax-payers to clear their debt by instalments over longer periods or we have the option to seek to recover the debt through other means eg attachments to their benefits – Wherever possible, we try and make an arrangement with the debtor that respects their best interest although we have to do as much as possible to recover the debts.

- 4.2. Lewisham currently hold a contract with a number of bailiffs (Newlyns, Equita and Ross and Roberts) for the provision of external enforcement agents. The current contract commenced on 1 April 2017 and would have expired on 31 December 2024. There is no option to extend the current contract.
- 4.3. The council do not pay the EA companies to collect the debt owed. They raise fees at the compliance, enforcement and removal sale stages. They can only raise fees once they have received a liability order from the Council. There is also no guarantee of the number of cases passed to an EA company and these are determined by the ongoing work carried out by the Council and how successful conventional recovery has been ie residents have made payment based on just bills and reminders. It is also a requirement of the EA company to carry out tracing methods along with measure for the debtors “propensity to pay” for any prior year debts. As there is no guarantee of the number of cases being referred to an EA, we cannot set a standard rate for collection however the appointment of more than one EA affords us the opportunity to vary how many cases are referred to each based on prior performance.
- 4.4. Enforcement Agents are one option we can use to collect debt owed once we receive a liability order issued by the County Court following a summons. This method of recovery involves a compliance stage, enforcement stage and in some cases removal and sale stage. There is a requirement for Enforcement Agent companies to send a notice of Enforcement document in writing to the resident at compliance stage and giving the debtor a clear 14 days to make contact.
- 4.5. Within this compliance stage it is expected that the Enforcement Agent company makes proactive attempts to reach the debtor by letter, SMS (text) call or email. If the debtor fails to make contact, the debt would move to Enforcement stage.
- 4.6. Enforcement stage involves an EA visiting the address in person. It is expected that this first visit is done within 7 days of the enforcement stage. In the event of no contact with the debtor, a further 2 visits will be conducted. These visits must fall within each of three time frames - 7am-9am, 9am-4pm and 4pm-7pm. Within the enforcement stage a further proactive attempt should be made to reach the debtor which could be SMS (text), email or a telephone call. Records of this must be held on their account.
- 4.7. Removal and sale of goods is a rarity and not commonly used but, in the event of this happening, it would only take place once all previous options had been exhausted. Prior to any attempted removal of goods, contact should be made to the client (Lewisham) to confirm a removal is allowed. If a case reaches sale stage, then permission must be sought from the client (Lewisham) prior to this taking place. All necessary documentation and strict timeframes must be adhered to for each of these stages. Regulations that cover EAs are Schedule 12 of the Tribunals, Courts and Enforcement Act 2007 (TCE Act); Taking Control of Goods Regulations 2013 and the Taking Control of Goods (fees) Regulations 2014.
- 4.8. It is also a requirement that any EA instructed to visit an address for a liability order

wears a body worn camera. That footage of this be made available to the debtor upon written or verbal request within 24 hours of the request being received. All non-statutory documentation used for EA visits should be presented to the debtor prior to contract agreement and must contain visual graphics to clearly indicate at which stage the debtor is at and any future actions to be taken. Advice should be offered and the EA company should have defined documentation for vulnerable debtors and other documents for those deemed not to be vulnerable.

- 4.9. Any EA company must be a member of the Enforcement Conduct Board and use EA's for Lewisham work to a qualification held of level 3 or above.
- 4.10. In order to support the Council's financial position, it is essential that we maximise council tax and business rate collection. Lewisham already has in-house EAs but there is a need to supplement this with external bailiffs who will contact debtors now living outside of Lewisham but also to make a further effort at recovering debt where Lewisham's own EAs have failed.

## **5. Procurement options and route to market**

- 5.1. It is recommended that external suppliers be procured to recover council tax and business rate debts. This approach would provide value for money for the Council by avoiding costly visits elsewhere within the country when debtors have changed address and moved outside of Lewisham. It could also be used to supplement our own efforts by undertaking additional activity against debtors where our efforts had failed.
- 5.2. The procurement should enable us to appoint a number of external enforcement agents, the preference is for 3. By having 3 Enforcement Agent contracts, it gives us an opportunity to encourage a competitive approach between the agents and the ability to increase the numbers of cases to the best performing agents which will hopefully result in increased income.
- 5.3. The following options set out below were considered:
- 5.4. Option 1. Do not procure – not recommended.
- 5.5. Option 2. In-sourcing – not recommended. Going ahead with this option would not be cost effective as enforcement agents would only be able to target significantly less debtors if they are not confined to working within Lewisham.
- 5.6. Option 3. Open tender – not recommended. Though this might attract a bigger pool of providers, the process would take significantly longer, and would not bring the same level of quality assurance that the Crown Commercial Services framework brings.
- 5.7. Option 4. Use National Framework – recommended. The Framework will be utilised via a further competition exercise among all suppliers that are capable of meeting our requirement.
- 5.8. CCS agreement RM6226 Debt Resolution Services recommended as this framework provides Access a panel of enforcement agencies and bailiff services. The agencies have the capacity and capability to work both internationally and nationally. They have expertise in consumer and commercial debt and have strong controls in place to make sure everyone follows all legal processes.
- 5.9. CCS agreement RM6226 start date is 14/12/2021 and end date is 13/12/2025. The benefits of procuring the contract via the CCS agreement RM6226 Debt Resolution Services are as follows:
  - debt recovery solutions which are aligned with cross government debt

management strategy;

- ensures value for money;
- high quality services with support from CCS subject matter experts;
- access a range of high quality and highly capable suppliers who are committed to providing excellence;
- access the best in-class suppliers who we selected using in depth market insights, based on fair and open competition;
- broad range of data solutions;
- strong collections and recoveries performance: this means that the agreement will maximise the amount of debt recovered for you it;
- endorsed by major debt charities and committed to providing social value and achieving fair outcomes;
- principles of framework align with Financial Conduct Authority (FCA) and achieving fair outcomes.

5.10. The Crown Commercial Services framework is compliant with UK/EU procurement legislation, and does not require us to run a full EU procurement process. However, we are likely to be able to achieve better value for money in line with our specific requirements, if we reopen competition within this framework as proposed.

## 6. Proposed procurement approach

- 6.1. It is proposed to procure the external supplier via the Crown Commercial Service framework agreement RM6226 Debt Resolution Services. Crown Commercial Service is a Public procurement organisation in the UK. They assist customers to access debt recovery and associated services including data, fraud and error, litigation and spend analysis recovery.
- 6.2. The use of the Crown Commercial Service framework agreement will ensure that providers have the experience and ability to provide a comprehensive service.
- 6.3. Lot 5 of the Crown Commercial framework agreement covers "Enforcement Services" in which there are 13 suppliers available.
- 6.4. All suppliers within this lot will be eligible to bid.
- 6.5. The proposed evaluation criteria will be 10% price and 90% quality. This is in line with the terms of the Crown Commercial Services framework. Although pricing is regulated by the Taking Control of Goods legislation, elements of the service such as arrest warrants and international enforcement have varied pricing.
- 6.6. Social value refers to the procurement improving social, economic and environmental wellbeing of the area. Examples may include the provision of training schemes, use of apprentices or working with local businesses.
- 6.7. The proposed timeline for the procurement is set out below:

<b>Activity</b>	<b>Provisional dates</b>
Approval to Procure Report	04 December 2024
Tender	January 2025

Tender closure	February 2025
Evaluation Period	February 2025
Moderation	February 2024
Contract start date	01 April 2025

## 7. Risk Implications

7.1. The following risks and mitigating activities have been identified for this procurement:

<b>Risks:</b>	<b>Mitigation:</b>
<ul style="list-style-type: none"> <li>The proposed pricing structure may be too low, resulting in a poor quality and unsustainable service.</li> </ul>	<ul style="list-style-type: none"> <li>Clarification will be requested from the bidder.</li> <li>A clear scope of requirements will be provided as part of the tender documents.</li> </ul>
<ul style="list-style-type: none"> <li>The proposed pricing structure may be too high, resulting in increased costs.</li> </ul>	<ul style="list-style-type: none"> <li>A clear scope of requirements will be provided as part of the tender documents.</li> <li>Adjust the level of service to align with available budgets.</li> </ul>
<ul style="list-style-type: none"> <li>The new contract may not come into place by July 2025 resulting in a need to renew the existing contract in order to meet statutory deadlines.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure an efficient procurement process with strict deadlines where possible.</li> </ul>

## 8. Financial implications

- 8.1. This report seeks the approval to procure external enforcement agents. There are no direct financial implications arising from this report as external enforcement agents collect their costs direct from the debtor and the cost of this contract to the Council is nil.
- 8.2. The benefit of having an external enforcement agent is to recover costs owed to the Council and therefore maximise income due to the Council.

## 9. Legal implications

- 9.1. This is a concession contract, which, in this case, means that the Council do not pay for the service. The service providers will receive payment from a third party. The value of each of the contracts falls below the financial threshold, therefore the Concession Contracts Regulations 2016 do not apply.
- 9.2. Concession contracts are covered by different legal requirements than those applicable to other contracts, including regarding the estimated expenditure threshold.
- 9.3. Concession contracts are still subject to competition in accordance with the Contract Procedure Rules. The relevant Category for determining the procurement route under these Contract Procedure Rules will be calculated by calculating the total turnover of



the concessionaire generated over the duration of the contract (net of value added tax) including any payment from the Council the estimated consideration which would have been given if the entire cost of the services had been paid for by the Council.

- 9.4. Approval to Procure
- 9.5. The report seeks approval to procure three external service providers to provide Enforcement Agent services. Given the estimated values of the contracts (at a length of 3 years with the option to extend for 2 years) the contracts would be categorised by the Contract Procedure Rules as “Category A” contracts. The report sets out the other options considered and explains why the use of a framework agreement is the recommended option.
- 9.6. Assuming that Mayor and Cabinet accepts the recommendation to procure three service providers, the Contract Procedure Rules (“CPR”) place requirements on how that should happen. The CPR require that when letting contracts steps must be taken to secure value for money through a combination of cost, quality and competition, and that competitive tenders or quotations must be sought depending on the size and nature of the contract (Rule 5). The requirements of the CPR would be satisfied by use of a mini competition under a framework agreement. As Category A contracts, it would be for Mayor and Cabinet to take a decision on the award of any contract.
- 9.7. Approval to Award
- 9.8. This report proposes that Mayor and Cabinet approve the award of three contracts for Enforcement Agents. This report further proposes that Mayor and Cabinet instruct the Executive Director for Corporate Resources in consultation with Director of Law and Corporate Governance and the Head of Revenues and Benefits give effect to this decision by applying the selection and award criteria to determine and enter into contracts with the preferred service providers.
- 9.9. The decision to award the contract contained in this report is a Key Decision under Article 16.2 of the Constitution. It is therefore required to be contained in the current Key Decision Plan and the Council’s Key Decision procedure must be followed.
- 9.10. Provided that the final contract value is within authorised limits as set out in this report and the preferred service providers are selected in accordance with the selection and award criteria published in the tender documentation, then the selection by the Executive Director for Corporate Resources of the preferred service providers in accordance with Mayor and Cabinet’s direction will not be a Key Decision. For audit purposes a written record should be kept setting out how the selection process has been applied and the preferred service providers selected, and officers from Legal Services should be consulted as necessary throughout the selection and award process.

## **10. Equalities implications**

- 10.1. Contractors will be required to comply with all equality and diversity legislation and be consistent with Lewisham’s Comprehensive Equality Scheme (the Council’s Key equality policy document).

## **11. Climate change and environmental implications**

- 11.1. The Council’s climate change and environmental objectives will be incorporated into the contract documentation and form part of the criteria used in the tender evaluation. Initiatives will include:
  - Encouraging customers to be more sustainable
  - Carbon off-setting

- 11.2. The successful provider will be expected to comply with the Council's environmental requirements, so as to minimise the environmental impact of the service.

## 12. Crime and disorder implications

- 12.1. The London Borough of Lewisham has a statutory responsibility under the Crime and Disorder Act 1998 to work with partners to reduce crime, disorder and substance misuse. There are no specific crime and disorder implications arising from this procurement. Health and wellbeing implications

## 13. Social Value implications

- 13.1. The public Services (Social Value) Act 2012 requires that when the Council is procuring services above the EU threshold – as is the case here – it must consider, before commencing a procurement process, how the procurement might be conducted so as to improve the social, economic and environmental wellbeing of the area. The matters to be considered must only be those relevant to the services to be procured and it must be proportionate in all the circumstances to take those matters into account.

## 14. Background papers

- 14.1. Lot 5 Crown Commercial Services – Enforcement Services  
[Suppliers on Lot 5: Enforcement Services - CCS \(crowncommercial.gov.uk\)](http://crowncommercial.gov.uk)

## 15. Glossary

- 15.1. Description of terms below.

Term	Definition
EA	Enforcement agents
CCS	Crown Commercial Services

## 16. Report author and contact

- 16.1. Report Author: Mick Lear, Head of revenues and Benefits,  
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