



**Report for: Cabinet**

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<b>Date of Meeting:</b>	10 March 2022
<b>Subject:</b>	Authority to Procure Civil Enforcement Agents (CEA)
<b>Key Decision:</b>	Yes
<b>Responsible Officer:</b>	Dawn Calvert – Director of Finance
<b>Portfolio Holder:</b>	Councillor Natasha Proctor – Deputy Leader and Portfolio Holder for Finance and Resources
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	Yes
<b>Wards affected:</b>	All
<b>Enclosures:</b>	Appendix 1 – Equalities Impact Assessment (EqIA)

## **Section 1 – Summary and Recommendations**

The purpose of the report is to seek authority to procure two external contractors to support the collection of unpaid Harrow Council debts, principally in relation to Council Tax, Business Rates, Parking Control Notices and Sundry Debtors.

### **Recommendations:**

Cabinet is requested to:

1. Authorise the procurement for up to two suppliers to provide collection and enforcement services for Council Tax, Business Rates, Parking Control Notices and Sundry Debts, for a period of three years with an optional two-year extension plus a further optional two-year extension and for a value of £10m over the 7-year period;
2. Authorise the procurement in accordance with Public Procurement rules and Contract Standing Orders; and
3. Delegate authority to award a contract under recommendations 1 and 2 above to the Director of Finance, in consultation with the Portfolio Holder for Finance and Resources.

### **Reason (for recommendations):**

The existing contract agreements for Enforcement Agent services, expire on 7<sup>th</sup> November 2022. Currently, two suppliers deliver the contracted services concerned that encompass the collection of Harrow Council income, where the Council has been unable to collect it directly.

Not procuring external partners, would potentially leave the authority with limited ability to collect approximately £5m per annum in relation to unpaid Council Tax, Business Rates, Parking Control Notices (PCN's) and other unpaid Council charges, which would impact adversely on the Council's budget.

## **Section 2 – Report**

### **Introductory paragraph**

Income collection relies on both internal and external collection and enforcement activities. Harrow Council does not directly employ Civil Enforcement Agents (formerly referred to as Bailiffs). Instead, it contracts commercial organisations to carry out “in person” collections and to “take control of goods” (i.e. remove them from a debtor's premises) with a view to sale. Without a contractor for that activity, the Council would be unable to effectively process liability orders issued by the Magistrates Court and / or execute arrest warrants / court orders, resulting in either loss of income or an extended period before outstanding monies were recovered. The procurement of an

external partner(s) for the services concerned, will facilitate the maximisation of income collection.

The existing agreements for Civil Enforcement Agent services expire on 7<sup>th</sup> November 2022. As the current contractors collect in approximately £5m per annum at zero cost to Harrow Council but at a £1m - £1.2m cost via retained fees collected from debtors, it is essential that Harrow ensures the seamless provision of the services to maximise income collection and minimise the financial risk exposure that might otherwise occur.

Historically, two organisations have been contracted to deliver the services in scope and this report recommends that this be maintained by seeking a procurement for up to two suppliers.

There are significant benefits in seeking to procure up to two organisations to deliver the services concerned particularly in terms of increased capacity and resilience, performance comparison, quality and competitiveness.

The core service in scope is expected to be provided free of charge to Harrow Council. This is because Civil Enforcement Agent fees are generally regulated for Council Tax, Business Rates and Parking Control Notices (PCN's) and payable by debtors. Where fees are not regulated or chargeable to a debtor, it is anticipated that contractors will set out in their tender submissions, the cost to the local authority. In that scenario, the cost will be chargeable to and met from within existing service revenue budgets for which financial provision already exists.

## **Options considered**

The option of not appointing a Contractor to deliver the service has been considered but dismissed. This is because not collecting a sizeable proportion of annual income without the support of enforcement agents, would give rise to a potentially unacceptable level of financial risk exposure. Additionally, for some Council debts, the process of taking control of goods via a Civil Enforcement Agent, is a mandatory precursor to any subsequent enforcement activity. Consequently, not appointing a Contractor, may prejudice future enforcement activity in some instances.

The establishing of an in-house service has been considered but dismissed, as the set-up costs required to establish and deliver the services together with the risks inherent in undertaking such work, would be significant with no guarantee that the service could become self-funding. Additionally, there is insufficient time remaining before the current contract expiry date in which to establish and implement the necessary arrangements for achieving seamless service delivery.

## **Implications of the Recommendation**

### **Income collection policy & dealing with vulnerable clients**

It is worth noting that the re-procuring of Enforcement Agents will not impact on our existing policies regarding our processes and how we deal with both vulnerable and financially vulnerable clients. Harrow already has a vulnerability policy and any specification issued to the market will make it clear that agents will need to adhere to Harrow's policy. The specification will also insist on potential service providers setting

out their processes on how they handle vulnerable clients and will insist on these being handled in a different way to general debtors. This will ensure we sensitively handle such cases, allow more time for repayment and give advice on both budgeting and on signposting so they may obtain extra support with benefits for example. In the current climate of high inflation, procedures for handling and processing vulnerable clients will carry high value in the scoring process as will be reflected in the likely quality to cost ratio which is expected to be 80:20.

### **Resources, costs**

The cost of resourcing the project will be managed within existing service budgets. The project is likely to cost around £40k if taking staff costs / time into account.

### **Staffing / Workforce**

There are no anticipated implications upon Harrow staffing or its workforce arising from the recommendations within this report. A project team to be comprised of subject matter experts and technical experts will be established however, to effectively manage and conclude the procurement process.

### **Performance Issues**

This report seeks authority to procure Civil Enforcement Agents to support the Council with its Revenue collection functions. Procurement of the service concerned, will influence cash collection rates achieved for Business Rates, Council Tax and PCN's. These are key indicators monitored locally and published nationally each year.

Not procuring a supplier to deliver the services concerned, would adversely impact upon Harrow's in-year cash collection rates achieved, cash flow management arrangements and potentially, its reputation with stakeholders.

### **Environmental Implications**

There are no significant environmental impacts currently anticipated from the recommendations contained within this report. However, subject to approval of the recommendations in this report, tenderers will be requested to submit proposals that have a positive impact for the local environment and that shall be evaluated for the purposes of determining the most economically advantageous tender(s).

### **Data Protection Implications**

The contract agreement for the services in scope, will require tenderers to comply with Harrow Council terms and conditions in relation to General Data Protection Regulation (GDPR) provisions.

It is also proposed that Data and IT Security be one of the qualitative criteria that shall be evaluated for the purposes of determining the most economically advantageous tender(s).

### **Risk Management Implications**

Risks included on corporate or directorate risk register? **No**

Separate risk register in place? **Yes – A project risk register will be established and maintained for this project.**

The relevant risks to be added to the register are attached/summarised below.

<b>Risk Description</b>	<b>Mitigations</b>	<b>RAG Status</b>
There may be insufficient market interest from suitably qualified suppliers.	The Civil Enforcement Service market is well established with a significant number of suitably qualified organisations considered likely to express an interest in the work requirements.	Green
Actual volumes and unit prices payable by Harrow Costs for the services in scope may differ from that currently financed from within service budgets.	The volumes of direct chargeable services are anticipated to be low based upon prevailing requirements (both statutory and otherwise) and therefore could be absorbed within existing revenue budgets.	Green
The procurement and contract award, are not concluded by the existing contract expiry date.	The procurement arrangements will commence and be conducted within the project timescale required to ensure seamless and continuous service provision.	Green
Non-compliant tenders may be received.	The procurement strategy and approach determined, shall have due regard to any likelihood for non-compliance and incorporate reasonable steps to mitigate that risk.	Green
Non-compliance with the application of the Public Contracts Regulations, Public Services (Social Value) Act & Harrow's Contract Procedure Rules	The procurement approach determined, shall have due regard to any likelihood for non-compliance and incorporate reasonable steps to mitigate that risk.	Green
Service disruption may occur at the end of the existing contract, particularly if there is to be a transfer of	Exit arrangements are provided for within existing agreements and a transition period is anticipated for take-on of	Green

<b>Risk Description</b>	<b>Mitigations</b>	<b>RAG Status</b>
the work to a new supplier(s).	the contractual obligations in the event of a new supplier.	
Key Harrow personnel may not be available to support the project at the relevant times required.	A detailed project timetable and availability of key personnel shall be determined at the project outset to ensure continuity and achievement of required workstreams.	Green
Risk to budget due to no Enforcement Agent contract being in place	Adherence to this procurement process will reduce risk and ensure collection performance is maintained to meet budgeted income targets	Green

## **Procurement Implications**

The estimated total value of the Service recommended to be procured (approximately £10m over 7 years) is above the current UK financial threshold for such services. A procurement will therefore be subject to the full application of the Public Contracts Regulations 2015 (as amended).

The award of the contract(s) is also subject to the Council's own Contract Procedure Rules in respect of High Value contracts and Financial Regulations. As a result, approval in accordance with the Council's Contract Procedure Rules will be required for the award of the contract(s) and a mandatory ten calendar day standstill period will be observed where it is applicable and appropriate to the contract award.

The new contract proposed will be for a three-year term with an option to extend for two further two-year periods (i.e. providing for a maximum term of seven years).

The procurement strategy to be adopted for the services in scope will be by competition or award via competition against a framework agreement or Dynamic Purchasing System, and in any case, compliant with Public Contract Regulations 2015 (as amended) and the Council's Contract Procedure Rules.

The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement. It is therefore proposed that Social Value comprise one of the qualitative criteria evaluated to determine the tender(s) that is the most economically advantageous to the Council.

An indicative timetable for the procurement is shown in Table 1 – Indicative Procurement Timetable below, based upon application of the restricted procedure. The timetable, however, may vary dependent upon the procurement strategy adopted.

**Table 1 – Indicative Procurement Timetable**

<b>Timing</b>	<b>Activity</b>
10 <sup>th</sup> March 2022	Cabinet Report to authorise procurement
2 <sup>nd</sup> May 2022	Advertise Procurement for Expressions of Interest
3 <sup>rd</sup> May 2022 to 2 <sup>nd</sup> June 2022	Receive Pre-Tender Selection Questionnaires
3 <sup>rd</sup> June 2022 to 24 <sup>th</sup> June 2022	Evaluate Pre-Tender Selection Questionnaires
27 <sup>th</sup> June 2022	Issue Invitation to Tender
22 <sup>nd</sup> July 2022	Receive Tenders
25 <sup>th</sup> July 2022 to 26 <sup>th</sup> August 2022	Evaluate Tenders
9 <sup>th</sup> September 2022	Contract Award Decision
12 <sup>th</sup> September 2022	Issue notice of award and commence standstill period
26 <sup>th</sup> September 2022 to 7 <sup>th</sup> November 2022	Contract Mobilisation, Transition and Take-On Period
8 <sup>th</sup> November 2022	Contract Start Date

## **Legal Implications**

Under Section 3 of the Local Government Act 1999, Local Authorities are under a general Duty to secure Best Value services. The duty is to “make arrangements to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness.” The recommendations in this report will assist with the achievement of Best Value.

The Services to be procured are subject to the Public Contract Regulations 2015. As the value of the proposed service is higher than the current UK financial threshold for such services, the procurement arrangements and award of contract are subject to the full application of the Public Contracts Regulations 2015.

The Council can conduct a competitive tendering exercise using one of the prescribed procedures under the Public Contracts Regulations 2015 or call off services under a compliant public framework agreement in compliance with the rules set out in the framework agreement.

The award of any eventual contract(s) is also subject to the Council’s own Contract Procedure Rules in respect of High Value contracts and Financial Regulations. As a result, approval will be required for the award of the contract(s) in accordance with Contract Procedure Rules and Financial Regulations.

Officers are currently of the opinion that the Transfer of Undertaking (Protection of Employment) Regulations 2006, as amended, (“TUPE”) shall not apply to a contract awarded for the services in scope.

## **Financial Implications**

Local taxation and Parking Control Notice (PCN) income comprise a substantial proportion of the Council's total annual budget. With other income sources diminishing and increased dependency on collection of local income, appropriate resources need to be deployed to guarantee income stability and maintain the high in-year collection rates historically achieved. Approving this report will ensure we achieve these objectives.

As the greater proportion of the services in scope are chargeable to a debtor and not Harrow Council, there is not currently anticipated to be a financial impact upon revenue budgets, for which a financial provision already exists within service budgets.

## **Equalities implications / Public Sector Equality Duty**

The public sector equality duty, as set out in section 149 of the Equalities Act 2010, requires the Council, when exercising its functions, to have "due regard" to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who have a "protected characteristic" and those who do not share that protected characteristic.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

This includes enquiring into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

In considering the recommendations submitted within this report, a predictive Equality Impact Assessment has been undertaken to ensure that any potential adverse impact to groups that share a protected characteristic has been identified, evaluated and mitigated wherever possible. This has been included at Appendix A to this report.

The analysis has not identified the potential for an adverse impact at this stage. However, any equalities implications arising from the recommendations will continue to be considered and assessed as further data/information is obtained or becomes available during the procurement process.

## **Council Priorities**

Tenderers proposals for improving the environment and addressing climate change and tackling poverty and equality, shall be sought and considered within the tender evaluation arrangements.

Additionally, by virtue of the requirement for tenderers to submit social value proposals and these being considered within the tender evaluation arrangements also, it is anticipated that these may be used to support and facilitate a thriving economy through the preferred supplier(s).

### **Section 3 - Statutory Officer Clearance**

**Statutory Officer: Dawn Calvert**

Signed off by the Chief Financial Officer

**Date: 22 February 2022**

**Statutory Officer: Stephen Dorian**

Signed on behalf of the Monitoring Officer

**Date: 22 February 2022**

**Chief Officer: Charlie Stewart**

Signed off by the Corporate Director

**Date: 22 February 2022**

**Head of Procurement: Nimesh Mehta**

Signed off by the Head of Procurement

**Date: 22 February 2022**

**Head of Internal Audit: Susan Dixon**

Signed off by the Head of Internal Audit

**Date: 22 February 2022**

### **Mandatory Checks**

**Ward Councillors notified: NO, as it impacts on all Wards**

**EqlA carried out: Yes**

**EqlA cleared by: Shumaila Dar**

**Call-in waived by the Chair of Overview and Scrutiny Committee -NO**