

Subject: Corporate Enforcement Framework
Date of Meeting: 5 December 2019
Report of: Executive Director for Finance & Resources

**Contact
Officer:**

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Ward(s) affected: (All Wards);

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report seeks approval from the Policy and Resources Committee to procure enforcement services through a framework. This is intended to replace the informal arrangements that the council currently has with a number of external enforcement companies, with a more robust arrangement.
- 1.2 There would also be an option for Parking Services to access enforcement services under this framework once they have considered options regarding their collection and enforcement operation.
- 1.3 Having fully considered the report at the Procurement Advisory Board (PAB) on 14th October 2019, Members agreed to put forward the proposals below for the Policy and Resources Committee to approve.

2. RECOMMENDATIONS:

- 2.1 That the Committee approves the procurement and award of contracts for enforcement services through a compliant framework for an initial term of 2 years with the option to extend for two periods of up to 12 months.
- 2.2 That the Committee supports the proposal for the corporate debt team, as part of its improvement programme, to develop business cases for bringing elements of enforcement in house in accordance with the objectives of the Corporate Debt Policy.
- 2.3 That the Committee notes the importance of debt collection as an essential function in order to be able to fund the priorities of the Council.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 On 24 January 2019 the Policy Resources and Growth Committee approved the new Corporate Debt Policy. This is attached as **Appendix 2** to this report.
- 3.2 The responsibility to ensure the Policy is delivered falls upon the Corporate Debt Board, which is made of senior representation from all seven of the debt hubs plus an advisory solicitor. The board has four key goals:
- Establish a proportionate, fair and effective end to end approach to debt management;
 - Use analytics to understand the debt portfolio and drive best practice for debt management;
 - Instil an ethos of fairness, built upon principles that recognise the impact debt collection has on the vulnerable; and
 - Have a proportionate enforcement response to those who do not pay on time.
- 3.3 The policy highlights the best practice that has been established to support residents who are vulnerable or experiencing hardship in dealing with their financial commitments to the council. The principles of early recognition and intervention, sustainable and affordable arrangements, and a pathway to advice and support, are all well embedded in the council.
- 3.4 Much of the council debt portfolio is business debt and services operate with the appropriate balances to collect this debt efficiently with consideration of the social and economic value of local businesses.
- 3.5 The Board noted the commitment in section 8 of the Policy to achieve best practice in the use of enforcement agents, and commissioned a piece of work around this. This work uncovered a weakness in the current arrangements with enforcement companies. The proposal in this report seeks to address these weaknesses and provide a stronger platform for delivering the objectives, i.e.:
- to reduce the use of enforcement agents;
 - to ensure any vulnerability and hardship cases that are only identified at this late stage are appropriately responded to; and
 - to ensure the portfolio of debt is appropriately managed and all parties adhere to the code of practice.
- 3.6 In 2018/19 the Council collected approximately £445 million in fees, charges, rents, council tax and business rates. Of this amount £363 million is to support council services and the remaining £82 million is collected on behalf of government, police and fire authorities.
- 3.7 The majority of the sums collected is paid on time by residents and customers via direct debit or other convenient payment methods. Each debt area has its own escalation routes to pursue outstanding payments and its own legislative requirements, but all have built in consideration of vulnerability, hardship and affordability. At the end of these processes for Parking, Business Rates, Council

Tax, and Corporate Collection, the Council exercises the option to refer the debts to external companies for enforcement action. In 2018/19 just under £7m (1.6% of the total annual debt to be collected) was referred to external companies.

- 3.8 Best practice regarding efficient recovery advocates earliest possible intervention/ collection. This approach is also regarded, provided there is the appropriate welfare support and understanding of affordability, as the best strategy to identify and address hardship and vulnerability.
- 3.9 As a debt becomes more aged the prospect of recovery diminishes and the pressure on the debtor grows. Certain debts have time limitations for recovery. To manage a debt portfolio efficiently there has to be prioritisation regarding age, level of debt, likelihood of recovery and ability to pay. There is no value in allowing debt to build up while awaiting capacity to deal with recovery. Therefore, in terms of enforcement management it is considered best practice to manage cases over a number of operators to be able to ensure performance levels are maintained and recovery activity is prompt.
- 3.10 The current engagement of external enforcement companies mostly relates to aged debt where our internal recovery efforts, including those of the Council's own enforcement agents, have been exhausted. There are currently no direct contractual payment for services on the basis that the financial incentive is performance related, either in a percentage of the amount recovered or, more commonly, in terms of costs charged on the enforcement action (the costs are fixed and government stipulated).
- 3.11 There is also no contractual obligation to provide the companies with specified volumes of work. The debts are not sold to the companies, but collected on behalf of the Council and as such can be withdrawn to the Council at any stage.
- 3.12 Currently there is variable use of enforcement companies across the Council's collection hubs depending on the legislation that frames the escalation options open to the service. Where they are used, the services departments independently identify external enforcement companies to carry out escalation recovery work. The way they are sourced and secured varies as do the Service Level Agreements. The corporate debt team review shows an inconsistent approach to scrutiny, performance management and review. There are already checks and balances in play in set legislation and industry standards but there is a lack of local accountability with the incentive of obtaining further work being the main reason to comply.
- 3.13 It is proposed to introduce a more formal, consistent and transparent selection and tender process for enforcement companies. To be successful and contracted to work for the council the companies must show they can meet the standards and requirements of the seven main income streams for the Authority.
- 3.14 This process would then allow the Council to access quickly and easily enforcement services from providers that have already been vetted and meet the agreed standards of the Authority. This is designed to deliver increased income for the authority through more effective and quicker collection of debt.

- 3.15 It is envisaged that services will channel their escalated enforcement work through the corporate debt team. The framework in tandem with the team's specialist enforcement software will enable relative performance of external and internal enforcement actions to be measured, analysed and compared. This would enable us to improve outcomes for the Council. Parking may be the one exception to this process. Parking debt had different parameters and it is not decided yet whether, in the longer term, it would be operationally more effective to treat it within its own framework. Whatever the outcome there will be coordination and consistency in approach.
- 3.16 Enforcement agents (bailiffs) are regulated by court certification supported by a qualifying exam. The Taking Control of Goods (TCOG) Regulations 2013 and the enabling Tribunals Courts and Enforcement (TCE) Act 2007 brought all bailiffs under one set of regulations for the first time and clarified the law. There is also a set of National Standards that enforcement agents, EA companies and creditors should abide by.
- 3.17 The Council is one of 29 pilot authorities with controlled access to HMRC data. Using this data, the council can affect attachments to earnings and identify potential financial vulnerability cases. This pilot is a quarter the way through its 12 months duration and although in its early days, a number of councils believe this will reduce work being passed to enforcement agencies by around 40%.
- 3.18 From October 2019 the council will be part of a new BAU (business as usual) pilot to include DWP data as well as HMRC data. This will better inform councils in the course of action to take with the potential to reduce further the number of cases passed to enforcement companies.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 There are two elements to enforcement activity, those being 'desktop' and 'doorstep'. Currently the Council does a limited amount of both, due to capacity and cost effectiveness. The desktop activity can happen anywhere whereas the doorstep activity is geographically determined. It is the officer view that the portion of debt subject to out of area doorstep activity cannot be considered for in-house whilst everything else can potentially be brought in-house.
- 4.2 Regardless of the degree and efficiency of the in-house activity, there will always be the need for external specialist enforcement agents to undertake out of area work, manage fluctuations in workload and provide a final collection option when in-house enforcement efforts have been exhausted.
- 4.2 The Corporate Debt Team is currently in the process of implementing software to introduce a modern corporate debt system (ClickDebt). Once established ClickDebt will greatly increase the viability of operating at a level where more in-house work becomes tenable. It will also provide clarity in management information to compare the relative performance of external providers and insight into how this compares with in-house performance.

- 4.3 Additionally initial results from the first HMRC pilot are very encouraging, and if this leads to a permanent data sharing arrangement then this could significantly increase the business case for in-house provision.
- 4.4 Effectively the Corporate Debt Team is creating a platform from which they can pro-actively look to bring work in-house when assured that this results in a better outcome for the council. Any progression in this regard will be measured and gradual. The procurement framework provides a safeguard during this progression to ensure escalated cases are still dealt with swiftly where it is beyond our capacity.
- 4.5 The key benefits we are seeking from this work are to:
- pro-actively reduce the use of enforcement agents, particularly for household debt.
 - make our debt prevention and vulnerability interventions more effective
 - push effective debt recovery back to earlier stages in the process.
 - make sure debt is not created unnecessarily, to ensure we are accurate with our information.
 - collect at affordable levels and to intervene early and pro-actively when we recognise payments are falling behind.
- 4.6 If these objectives are achieved then there are numerous benefits; earlier identification of the financially vulnerable, better collection, better customer service, better workflow and increased opportunity to ensure the escalation workflows are more efficient and manageable in house.
- 4.7 So while it is difficult to establish a current immediate viability to bring work in house there is the imminent prospect that this situation may change and that a managed transition is a realistic prospect for the future. The emphasis in this transition will be in pro-active desktop intervention stages that reduce the need to use doorstep enforcement visits, not a like for like replacement. Again this is in keeping with the objectives of the corporate debt policy.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 No community engagement has been carried out in terms of this specific recommendation because it is an operational decision in accordance with the agreed objectives of a corporate policy
- 5.2 As stated in the Council Tax Reduction Review Report, also on the 5 December Policy & Resources agenda, the broader intention is to conduct a corporate cross service exercise in exploring options to an improved strategic approach to welfare. This development would be complimentary to and supportive of the aspirations of the Corporate Debt Policy.

6. CONCLUSION

- 6.1 During PAB, a number of discussions were had, however the Board agreed all the recommendations in the report.

- 6.2 Further to this, approval is now being sought to proceed with the recommendations set out in Section 2.
- 6.3 The report recommendations acknowledge that the proposed framework provides a greater legal robustness than existing arrangements while recognising the progress the council wishes to make in accordance with its Corporate Debt Policy. In turn this progression links to the wider ambition to improve the corporate strategic approach to Welfare as outlined in the Council Tax Reduction Review report.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications from the council accessing the framework for external enforcement services as the payment arrangements are the same as those currently in place.
- 7.2 Reduction in debt reaching the enforcement stage of recovery is likely to support improvements in the level of debt collected thereby reducing arrears, bad debt provisions and debt written off. There may be reductions in court costs income as debt is settled at an earlier stage which would be a better outcome for the debtor. Any impacts on income collection will be reflected through the Targeted Budget Management (TBM) reports that go to the Policy & Resources committee, as well as future years' budget setting.
- 7.3 The financial implication from any elements of enforcement being brought in-house will be assessed and included in the relevant business cases.

Finance Officer Consulted: James Hengeveld

Date: 05/11/19

Legal Implications:

- 7.4 The procurement of the proposed enforcement contracts from a third party framework agreement must be carried out in accordance with all relevant public procurement legislation as well as the council's Contract Standing Orders (CSOs).
- 7.5 Legal implications can be given on the proposals to bring elements of enforcement services in house when they are more fully developed.

Lawyer Consulted: Barbara Hurwood

Date: 25/11/19

Equalities Implications:

- 7.6 The corporate debt policy EIA is attached as **Appendix 3**.

Sustainability Implications:

- 7.7 The Corporate Debt best practice of early intervention should lead to reducing resources used in doorstep recovery and reduce the number of home visits, most of which would include vehicle travel.
- 7.8 The introduction of the Enforcement Framework and the drive to pre-empt doorstep activity and shift resource and emphasis to pro-active desktop will further enhance these sustainability benefits.
- 7.9 The tender process will enable the council to identify where we can consider gains in the overall sustainability agenda.
- 7.10 Part of this consideration will be the use of electric vehicles and the use of intelligent routing software to reduce journey length and times.
- 7.11 The implementation of new software enhances the Council's ability to move to paperless transactions.
- 7.12 Effective collection will contribute to the Councils' financial ability to support its overall sustainability agenda.

SUPPORTING DOCUMENTATION

Appendices:

- 1. Implications
- 2. Corporate Debt Policy
- 3. Corporate Debt Policy Equality Impact Assessment

Documents in Members' Rooms

None

Background Documents

None

Crime & Disorder Implications:

- 1.1 None

Risk and Opportunity Management Implications:

- 1.2 There are potential risks in not employing the framework in terms of loss of income, reputational damage.
- 1.3 There are potential risks in not getting the right balance between in-house and external services in terms of loss of income.

Public Health Implications:

- 1.4 None

Corporate / Citywide Implications:

- 1.5 The Corporate Debt Policy outlines the social value of applying best practice particularly in the recognition of hardship, vulnerability, affordability and considering the community value of local businesses and organisations. This value will be further enhanced if exercised in conjunction with the welfare support services in the Council and voluntary sector, which is very much the direction of travel.
- 1.6 The procurement process gives the opportunity to consider the social value of the partner organisations we engage in terms of living wage, value to the local economy in terms of employment. Specifically within the tender process there is a requirement for organisations to have their own vulnerability policy as well as adhering to the requirements of the Council.
- 1.7 The drive to implement desktop enforcement solutions internally could lead to more local employment within the Council service.