

Item No.	Classification: Open	Date: 14 December 2016	Meeting Name: Strategic Director of Finance and Governance
Report title:		Gateway 1 Procurement Strategy Approval Revenues collection – use of internal enforcement agents	
Ward(s) or groups affected:		All	
From:		Director of Exchequer Services	

RECOMMENDATION (S)

1. That the strategic director of finance and governance approves the procurement strategy for the use of internal Enforcement Agents in the collection and enforcement of council tax, business rates and BID levy charges as set out in this report.
2. That the strategic director of finance and governance approves the policy for internal Enforcement Agents as detailed in Appendix 1 to this report.
3. That the strategic director of finance and governance approves the levying of statutory fees as prescribed in the with Taking Control of Goods (Fees) regulations and as detailed in paragraph 6 below under delegated authority from the Leader as detailed in paragraph 12.

BACKGROUND INFORMATION

3. In April 2011, a five year framework agreement for bailiff (now Enforcement Agent) enforcement services was established. Approval was given to extend the framework agreement until 31 March 2017 to ensure that there was a provision for Enforcement Agents with the four suppliers able to provide enforcement services for council tax and business rates.
4. In April 2014, the Taking Control of Goods regulations came into effect and introduced regulation into the enforcement industry for the first time, it having previously been governed by the common law of distress which had developed over many hundreds of years.
5. Under the new regulations, there is now a defined three stage process of enforcement with fixed fees for each stage of the process. All fees are due from the debtor and payable to the enforcement agent not the local authority. The fees for each stage are:

Fee Stage	Fixed Fee	Percentage fee (percentage of sum to be recovered where the amount exceeds £1,500)
Compliance stage	£75.00	0%
Enforcement stage	£235.00	7.5%
Sale or disposal stage	£110.00	7.5%

6. Historically, the approach taken to the collection and enforcement of council tax had placed reliance on the statutory process and instigation of formal enforcement action. This resulted in a significant number of cases referred to bailiffs (now Enforcement Agents) to take enforcement action.
7. From April 2014, the council tax operating structure was changed so that greater focus was placed on the collection of debt rather than processing cases through the statutory recovery stages. To achieve this, the teams were separated into two distinct functions, end to end processing and debt collection.
8. At the time of extending the framework agreement, a new collection approach was being developed with the objective of reducing cases being referred to Enforcement Agents by delivering collection outcomes rather than progressing cases through the statutory process and adding costs and fees to the debt outstanding.
9. The first year of operating with debt collection teams proved very successful with £1.4m collected from telephone payments alone. This was an increase of £800k from 2013/14 and the collection performance in 2015/16 has seen further improvements with an increase in telephone payments by £200k to £1.6m and overall arrears collection increasing by £466k to £3.66m from the previous year.
10. The debt collection approach continues to be developed and the full range of enforcement will be considered and, where appropriate, instigated. For persistent non payers and those avoiding payment, the collection approach has focused on increasing contact with customers and achieving a collection outcome in preference to progression through statutory enforcement.
11. The debt collection team's focus and activities include:
 - residency checks to confirm the debtor is resident at the property,
 - intelligent case matching to determine the most appropriate enforcement action, taking account of the total debt owed,
 - additional non-statutory communications (including SMS and voice messaging) sent to debtors to prompt contact advising of where help and support is available, including repayment arrangements,
 - outbound debt collection calling campaigns to agree repayment arrangements,
 - checks to establish potential vulnerability and referral for advice and support,
 - debtor home visits.
12. The approval of new fees and charges to be levied is a decision reserved to the cabinet. Under his strong leader authority, the Leader delegated approval of the fees and charges noted in paragraph 3 of this report on to the strategic director of finance and governance

Summary of the business case/justification for the procurement

Enforcement Agent performance

13. Collection performance targets are clearly set out in the framework agreement for enforcement agent suppliers. Council Tax and business rates have called on these

services significantly from April 2011 with over 17,000 cases referred for enforcement each year from 2011/12 to 2013/14. None of the 4 suppliers has achieved collection targets for both council tax and business rates since the framework agreement started.

14. In total £45.8m of council tax debts was referred to external Enforcement Agents during the financial years 2011/12 to 2013/14 and a total of £3.8m was collected by all 4 providers for a three year period (8.3%). In comparison, the debt collection team have collected over £3m in telephone collection alone for 2014/15 and 2015/16, a two year period whilst improving overall arrears collection in that period.
15. During 2014/15 there was a significant reduction in the number of cases referred to Enforcement Agents. 3616 Liability Orders with a debt value of £3.8m were referred to external Enforcement Agents to establish whether performance under the new Taking Control of Goods regulations would result in improved performance. The collection performance for these cases declined from the performance levels prior to the new regulations being implemented with £92k collected (2.4%).
16. For 2015/16 and 2016/17 to date, no council tax cases were referred to Enforcement Agents and the debt collection approach has outperformed Enforcement Agents on cash collected.

Internal enforcement agents

17. The performance of the debt collection teams has proved successful in increasing cash collected using the approach outlined above. Many aspects of this approach are consistent with that undertaken by enforcement agents during the compliance stage in the Taking Control of Goods regulations.
18. A number of Revenues Officers and Revenues Team Leaders have completed the Taking Control of Goods Level 2 examinations and have gone on to become certificated by the County Court to operate as Enforcement Agents.
19. Establishing an internal enforcement agent capability is a natural extension to the debt collection service and allows for enforcement action to be taken and fees to be charged for the compliance and enforcement stages where required.
20. The internal enforcement agent approach will differ significantly from that of external suppliers who are commercially driven by the collection of fees as payment for the services they provide. The approach taken by internal enforcement agents will be to use all available data to make informed decisions on the appropriate course of action and to maximise customer contact to agree repayment of the amount outstanding.
21. There will be discretion taking account of all circumstances of the debtor and the Enforcement Agent policy clearly sets out when fees will be charged.

Legal Advice

22. Legal advice has been obtained and confirms that establishing and operating an internal Enforcement Agent service is considered an ancillary function to the collection of council tax and business rates and therefore there are no legal issues that need to be considered.

Income from fees

23. Establishing an internal Enforcement Agent service will allow for fees (as detailed above) to be charged and collected from debtors where the court has granted a Liability Order.

24. In the first year of operating with internal Enforcement Agents, an estimate of income from fees collection has been undertaken with a forecast of £250k.

25. The estimate of fee income is calculated as follows:

Enforcement Agent Fee Income	Number of cases	Fee income raised (£)	Estimated collection rate	Estimated income (£)
Council Tax				
Compliance stage fee	12,000	900,000	12%	108,000
Enforcement Agent enforcement	500	117,500	20%	23,500
Business Rates				
Compliance stage fee	600	45,000	70%	31,500
Enforcement Agent enforcement	300	70,500	50%	35,250
7.5% additional enforcement fee (average LO value £5k)	300	112,500	50%	56,250
Estimate of Enforcement Agent Income				254,500

Note: Estimates are based on year 1 collection from internal Enforcement Agents operation with a 25% increase in historic collection rates.

Market considerations

26. The market evidence is that there is a large number of enforcement agent companies, some large and some smaller, who are able to provide the services, There now seems to be a shift towards in-house Enforcement Agents with many local authorities having established or being in the process of implementing internal Enforcement Agents.

27. During the last two years, the London Borough's of Croydon, Newham, Merton and Lewisham have all established internal Enforcement Agent services.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

28. In reviewing the existing enforcement agent service there were 4 key options for procurement:

- i. Review the need for the service at all
- ii. Look to bring the service in-house
- iii. Full external procurement

iv. Extend the existing contract as per the previous approval granted

29. In reviewing these options it was clear that the in-house service option was the preferred option for the reasons outlined within this report. The advantages and disadvantages of each option is summarised below.

Option	Advantages	Disadvantages
Not having the service at all	None	Enforcement agents are a recovery option available to enforce debts and this would reduce the options available.
Look to bring the service in-house	<p>An in-house service would enhance the overall debt collection capability and improve collection whilst allowing for an holistic view of the debtor to be considered by the internal Enforcement Agents.</p> <p>An in-house service is not commercially driven to maximise collection of fees but will allow fees to be charged and generate an income.</p> <p>Internal Enforcement Agents would be working exclusively on Southwark council Liability Orders and therefore will not have competing priorities.</p>	There are set up costs to be taken into account and considered as set out in paragraph 46.
Full external procurement	A full external procurement would allow the council to consider all Enforcement Agent service providers.	Service providers may not deliver the council with the level of service required or to the level of service provided by internal Enforcement Agents.
Extend the existing contract	The existing framework agreement for external enforcement agent services has previously been extended so this cannot be considered.	Not applicable.

Proposed procurement route

30. To establish and operate in-house Enforcement Agents as an as an additional and ancillary function in the collection and enforcement of council tax, business rates and BID levy charges.

Identified risks for the procurement

31. There is a risk that the internal Enforcement Agent service will not deliver the level of service, improve collection or collect the estimated fee income (detailed in para 25 above) but the risk is considered low risk. The risk is considered low based on our collection performance, planned approach to enforcement and effective operational management of the service.

Key /Non Key decisions

32. This report deals with a non key decision

Policy implications

33. The internal enforcement agent services will allow the council to pursue and enforce debts which have not been collected through the statutory process or the new collection and enforcement approach.

Procurement project plan (Non Key decisions)

Activity	Complete by
DCRB Review Gateway 1:	22/09/2016
The Leader delegated approval of the fees and charges to the strategic director of finance	25/10/2016
Approval of Gateway 1: Procurement strategy report	15/12/2016
Start of new service	23/12/2016

TUPE/Pensions implications

34. TUPE does not apply.

Development of the tender documentation

35. There will not be a requirement to develop tender documentation; however, an internal Service Level Agreement will be developed to establish service and performance standards for the internal Enforcement Agents.

Advertising the contract

36. As this is an internal service there will not be a requirement to advertise the contract.

Evaluation

37. As this is an internal service there will not be a requirement to evaluate bids.

Community impact statement

38. Whereas external Enforcement Agents are commercial organisations and are reliant on maximising fees collection for their business, the in-house Enforcement Agent service will adopt the approach (as set out in 11 above) and will have

regard to all circumstances of the debtor. It is considered that an internal Enforcement Agent service will have a positive impact from the existing arrangements.

Social Value considerations

39. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.

Economic considerations

40. Due to the approach that will be taken by the internal Enforcement Agent service, small businesses and council tax debtors with lower value debts will not face significant fees being added to their debts and will be provided with full support to repay their debts.

41. Income received from Enforcement Agent fees will be reinvested in the service to improve the service and increase collection which will benefit residents and businesses by ensuring that the range and level of council services can be maintained.

Social considerations

42. The in-house Enforcement Agent service will be provided using existing Revenues Officers within Exchequer services and currently employed by the council and therefore there are no social considerations that have been identified.

Environmental/Sustainability considerations

43. The in-house Enforcement Agent service will utilise the latest technology and electronic communications thereby reducing the requirement for printing and posting of notices and letters.

44. The internal enforcement agents will plan and prioritise enforcement visits to ensure that travel within the borough is minimised and public transport is used wherever possible.

Plans for the monitoring and management of the contract

45. The management of the in-house Enforcement Agent service will be the responsibility of an Operations Manager in Exchequer Services. They will be responsible for all aspects of the service including reporting on a wide range of performance measures.

Staffing/procurement implications

46. There are no staffing implications for this procurement as the in-house Enforcement Agent service will be provided using existing Revenues Officers within Exchequer services.

Financial implications

47. The Policy and Resources Strategy 2016/17–2018/19 revenue budget report includes financial savings of £175k for 2016/17 and £100k for 2017/18 from enforcement agent fees collection.
48. Under the new Taking Control of Goods (Fees) regulations, all fees are due to the Enforcement Agent. Where Liability Orders are referred to external Enforcement Agents, there is no cost to the council for the service and the Enforcement Agent charges the fees to the debtor and retains all fees collected.
49. Establishing an in-house Enforcement Agent service will allow the council to charge the fees (as set out in paragraph 5 above) and retain the fees collected.
50. The estimate of annual income from fees is detailed above as circa £250k. The costs associated with establishing and operating an internal Enforcement Agent service have been identified as:

Internal Enforcement Agent costs	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Total Cost
Study and examinations fees	£7,000.00	£500.00	Nil	Nil	£7,500.00
Certification fees	£750.00	£450.00	Nil	Nil	Nil
Insurance Bonds	£1,250.00	£500.00	£1,250.00	£500.00	£3,500.00
Protective clothing	£500.00	£300.00	Nil	Nil	£800.00
Other equipment	£1,000.00	Nil	Nil	Nil	£1,000.00
Security system	£500.00	£500.00	£500.00	£500.00	£2,000.00
Enforcement mentoring / support	£2,000.00	Nil	Nil	Nil	£2,000.00
Enforcement Agent System (Onestep)	£14,000.00	£14,000.00	£14,000.00	£14,000.00	£56,000.00
Total	£27,000.00	£16,250.00	£15,750.00	£15,000.00	£74,000.00

51. The internal Enforcement Agent cases will be managed on the Onestep system which is the system that the majority of internal and external enforcement agents use. A variation to the Northgate managed services contract has been made to implement the Onestep system.

Legal implications

52. Please see concurrent from the Director of Law and Democracy

Consultation

53. There is no requirement to undertake consultation to establish an in-house enforcement agent service.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

54. This report seeks permission from the strategic director of finance and governance to approve the procurement strategy for the provision of internal enforcement agents for the collection of council tax, business rates and BID levy charges. The

report confirms the current arrangements and the rationale behind internalising the service, which is allowed as an exclusion from the public contract regulations 2015.

- 55. Paragraph 31 details the main risk with this approach, namely maintaining the improvements in collection rates, which have been achieved through trialling since April 2014 but officers are confident that this more ethical approach to enforcement is sustainable.
- 56. Paragraph 45 confirms the monitoring and management arrangements for the contract, which should ensure that this approach delivers the value for money anticipated.

Director of Law and Democracy


- 57. This report seeks the approval of the strategic director of finance and governance to the procurement strategy for the use of internal resources for collection and enforcement of council tax, business rates and BID levy charges. Contract standing order 4.1.3 requires that where it is recommended that a service that was previously externalised is brought back in-house, that the decision is approved through a gateway 1 report. Paragraphs 17-21 outline the justification for this procurement strategy.
- 58. In providing this service internally, the council is then able to levy fees which are prescribed by statute. Any decision to approve fees is reserved to cabinet, so this decision has been delegated to the strategic director by the leader using his strong leader delegation.

Strategic Director of Finance and Governance (F&G16/008)

- 59. This report is seeking approval from the strategic director of finance and governance of the procurement strategy for the use of internal Enforcement Agents and the policy for internal Enforcement Agents as detailed in Appendix 1.
- 60. It also seeks approval of the levying of statutory fees as prescribed in the Taking Control of Goods (Fees) regulations.
- 61. The strategic director of finance and governance notes that the establishment of the internal enforcement team, and maintaining it, can be contained within existing budgets.
- 62. It is also noted from the financial implications, that the team will provide the Council with a further income stream to meet the Finance and Governance 2017-18 savings target.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the Council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature 

Date 15-12-16

Designation: Strategic Director of Finance & Governance

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers (including contract reports)
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

1. DECISION(S)
To approve: <ul style="list-style-type: none">- use of internal Enforcement Agents in the collection and enforcement of council tax, business rates and BID levy charges as set out in this report- the policy for internal Enforcement Agents as detailed in Appendix 1 to this report- the levying of statutory fees as prescribed in the with Taking Control of Goods (Fees) regulations

2. REASONS FOR DECISION
As set out in the report

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION
As set out in the report

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION (IF APPLICABLE)*
Not applicable

*Contract standing order 4.5.1 states that for contracts with an Estimated Contract Value of over £100,000, the lead contract officer (LCO) must consult with the relevant cabinet member before a procurement strategy is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>

Not applicable

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact

APPENDICES

No	Title
Appendix 1	Internal Enforcement Agent Policy

AUDIT TRAIL

Lead Officer	Dominic Cain – Director of Exchequer	
Report Author	Norman Lockie – Operations Manager (Revenues)	
Version	Final	
Dated	14 December 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	No	No
Cabinet Member	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	No	No
Cabinet Member	No	No
Date final report sent to Constitutional /Community Council/Scrutiny Team		