

PART 1 - PUBLIC

Decision Maker: Environment Portfolio Holder

For pre-decision scrutiny by Environment PDS Committee on

Date: 4th October 2011

Decision Type: Non-Urgent Executive Key

Title: **PARKING BAILIFF & DEBT COLLECTION SERVICES:
GATEWAY REPORT**

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Chief Officer: Nigel Davies, Director of Environmental Services

Ward: All

1. Reason for report

The report seeks agreement for the procurement of bailiff services to provide effective debt recovery for Parking. In principle agreement is sought to use a framework agreement, for the future provision of bailiff and debt collection services. In the interim period continued use would be made of existing bailiff services, to ensure efficient collection and recovery of Penalty Charge Notice debts.

2. RECOMMENDATION(S)

That the Environmental Portfolio Holder:

- 1) Approves in principle the use of the Eastern Shires Purchasing Organisation (ESPO) Bailiff Services Contract 984CC for Bailiff Services from 1st April 2013, as described in section 4;
- 2) Approves the retention of JBW and Swift Credit Services to provide parking bailiff services up to 31st March 2013;
- 3) Approves the placement of a sample of Penalty Charge Notice debt collection cases with the Council's existing Council Tax bailiffs; and
- 4) Approves the agreement for use for 3 years commencing on 1st April 2013 with an optional one year extension. If the new framework agreement does not meet our requirements a further report to Members will be made to recommend an alternative way forward.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council. Quality Environment
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Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A. Annual income estimated to be between £200k and £250k p.a.
 3. Budget head/performance centre: Parking enforcement
 4. Total current budget for this head: £4.060m income from PCNs
 5. Source of funding: Existing revenue budget 2011/12
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Staff

1. Number of staff (current and additional): 1 fte
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Non-statutory - Government guidance.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Approximately 12,000 debtors per year receive action from the services being tendered.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

3. Commentary

- 3.1. The Council's Parking service is responsible for providing the following services – residential and business permits, visitor vouchers, blue badge applications, the issue of penalty charge notices (PCNs) and associated appeals, debt collection, and parking dispensations and suspensions.
- 3.2 An efficient debt collection process is essential to ensure outstanding fees for Penalty Charge Notices are collected. The service agreement which is in place with our current bailiffs has been reviewed. To continue to provide an effective collection service, it is necessary to ensure that market testing has taken place and that robust contractual arrangements are made with an effective service specification in place.

Debt Collect Process for Penalty Charge Notices

- 3.3 Penalty Charge Notices are primarily issued under the Traffic Management Act 2004 and associated legislation. The Act allows for the collection of Notices that have not been cancelled or paid to be collected by the use of a warrant. A Penalty Charge Notice becomes a debt on the registration of the Notice at Northampton County Court. There is a £7 registration charge for this service/requirement. In 2010/11 LB Bromley sent approx 12,000 Penalty Charge Notices for registration at Northampton County Court. This figure accounts for 15% of all PCN's issued. It is estimated that a similar number will be registered in the coming years.
- 3.4 Over the last few years a collection rate in excess of 20% of all warrants issued have been collected. It would be expected that any successful firm of bailiffs should achieve this rate if not better. Collection rates differ between local authorities and very much depend on the demographics of an area and the speed with which the local authority registers Penalty Charge Notices and debts. However anything in excess of 20% would represent a good return in comparison to many other authorities.

Background to the bailiff process and current industry procedures.

- 3.5 Since the last service agreement was entered into a number of new initiatives and technologies have been introduced, including the use of Automated Number Plate Recognition (ANPR) technologies, use of MDA for real time information and GPS tracking of bailiffs. Also, searching for individuals through the use of electronic datasets has improved significantly. Any successful service provider would be expected to demonstrate their current ability to use these technologies and continue to improve debt collection techniques and show an ability to meet the changes and opportunities in the future.
- 3.6 There are no charges to LB Bromley for the service. Once a Penalty Charge Notice has progressed to the relevant stage, a warrant is passed to the bailiff company who commence enforcement of the warrant. If the debt is collected the full value of the Penalty Charge Notice is returned to the Council; in addition the bailiff company charges a fee to the owner served with the PCN to cover any statutory and reasonable costs incurred in collecting the fine.
- 3.7 Primary legislation affecting bailiff services is currently going through the Parliament and a number of possible significant changes may result from the new legislation. The process has been delayed for a number of reasons and a date for implementation of any changes is currently not known. The timescale for the tender process set out below allows for a better understanding of the implications of the new legislation to be achieved, with a final specification and contract being able to incorporate any necessary or desirable changes.

4. Procurement Implications

- 4.1 A European Union compliant procurement framework has been identified – the Eastern Shires Purchasing Organisation (ESPO) Bailiff Services Contract 984CC. This came into being on 1st January 2009. Since then a number of changes within the industry, in term of companies' growth and decline, have taken place. The ESPO framework agreement has an expiry date of the 31st December 2011, but is being extended for a further year whilst a new framework is put in place for January 2013. Currently the ESPO framework agreement includes four suitable suppliers who have been pre-qualified. Use of the framework agreement would negate the need for LB Bromley to carry out its own pre-qualification assessment.
- 4.2 It is however recommended that we delay using the ESPO agreement until after the end of the extension period, to allow the review to be completed and an assessment of the revised agreement to be made, taking into account feedback from the local authorities using the agreement. In addition there are a number of other companies who may wish to tender for this work for LB Bromley, including both our current contractors who have significant experience of working within the borough. During the review period these companies, and others, may wish to take the opportunity to seek inclusion within the revised framework.
- 4.3 Parking Services will inform the bailiffs' trade association of our intention to use the ESPO framework agreement. This will ensure that companies interested in tendering for work with LBB understand that they will need to be within by the ESPO framework agreement if they are to be considered. This would include the contractors currently used by the Council.
- 4.4 The ESPO agreement provides documents including a standard specification and contract conditions. Preparation is underway on additional documentation, as LB Bromley understandably requires the service to be specifically tailored to the needs of the borough. The ESPO agreement is necessarily a general document which allows a range of different local authorities to be able to use it.
- 4.5 The possibility of using the bailiff companies whom Liberata currently employ for the collection of outstanding LB Bromley Council Tax has also been investigated. It is recommended that Parking Services test the services of Phoenix and Chandlers, who are their current service providers. This would involve a sample of warrants being issued to them and then an assessment made of their collection rate and related service performance. If the standards sought by the Council are met, then the option of extending the existing Council Tax contract to embrace parking fine collection could also be considered.
- 4.6 In order to ensure that a formal agreement remains in place Legal Services will be requested to extend the existing agreement with our current service suppliers until 31st March 2013.
- 4.7 The anticipated timeline for this service is as follows:

Formally extend current agreement with existing service suppliers	October 2011
Inform Bailiff trade association of LBB intention to use the ESPO agreement.	October 2011
Trial Council Tax bailiff services providers	January 2012 to April 2012
Review outcome of new primary bailiff legislation	2012
Revised framework agreement available	1 st January 2013
Review revised ESPO agreement and evaluate	January 2013
Commence use of ESPO agreement	1 st April 2013

- 4.8 During the revision and updating of the ESPO framework agreement, officers will continue to evaluate its progress and any changes. If the new framework agreement does not meet our requirements a further report to Members will be made to recommend an alternative way forward. This could involve commencing a tendering process, or agreeing an extension to the Council Tax contract.
- 4.9 In the interim period up to 31st March 2013 it is proposed to continue using the Council's current two contractors, and also to place some cases with the bailiffs used for Council Tax collection to test their service standards in relation to PCN debts (see 4.5 above).
- 4.10 The service currently provided by JBW and Swift Collection Services supports our debt collection processes for all Penalty Charge related debts. It allows us to monitor their performance against each other, and avoid reliance on a single company to provide the service. JBW and Swift Collection Services are well established companies and have provided good services over the term of the existing agreement. Given the number of warrants LB Bromley produce, it is recommended that the two companies should be retained to cover the interim period up to 31st March 2013.
- 4.11 The report also recommends that any further variation in services be included through the use of the ESPO framework agreement, which will require consideration of areas that could achieve better VFM. The final agreement entered into will also include scope for further debt collection services to be transferred, at a later date, to the successful tenderer where there is evidence that this would secure improvements in VFM. This for example may include the provision of collections of debts that have been raised through the issue of Fixed Penalty Charge Notices or the issue of Notices under the Highways Acts, for example.

5 Policy Implications

- 5.1 Providing excellent service and performance underpins the delivery of the objectives of "Building a Better Bromley". In particular, the effective management of parking supports the Council's transport policies and its aim of ensuring a quality environment.

6 Financial Implications

- 6.1 This report refers to the Parking bailiff and debt collection service which results in income of between £200k and £250k per year being collected which otherwise would have to be written off.
- 6.2 The report recommends that the current bailiff companies are retained until 31st December 2012 and that the bailiff companies used by Capita to collect outstanding Council Tax Debts be tested during this period as well.
- 6.3 The report also recommends that the Council adopts the framework agreement for an initial 3 year period commencing 1st April 2013, with an option to extend for a further 1 year, should the new framework be in place at this date. A duration of 3 years would reflect common practice across authorities for this type of service. It provides flexibility in the context of a changing business sector with fast moving advancements in technology, whilst providing sufficient security for investment and return for the successful company.
- 6.4 Financial checks and evaluation of each company will have been undertaken through the registration/application processes for companies wishing to be part of the framework agreement. However LB Bromley will ensure any additional checks takes place to ensure the financial security of any company is undertaken as part of the evaluation process and final bids.

7 Legal Implications

- 7.1 This service falls within Part A, Schedule 3 of the Public Contract Regulations 2006 (telecommunications services, computer and related services) to which the full EU procurement rules apply.
- 7.2 Legal Services are currently investigating if the scope of the Revenue and Benefits contract with Liberata, allows for bailiff services for parking related matters, to be undertaken by the bailiff companies that provide debt collection services for Council Tax. Approval has been given for Parking Services to 'test' these services as referred to in 4.5.
- 7.3 Given the timetable of the procurement process, Legal Services will draft a formal extension to the existing agreement which will end on completion of the procurement process. The extension will also include a requirement for additional management information to be provided by both companies which will allow for an improved evaluation process when tendering takes place.

8 Stakeholder Consultation

- 8.1 There is no direct stakeholder involvement in this process, although the Council's Customer Service Centre, who offer some limited advice on bailiff and debt collection matters for Parking Services, have no concerns.

9 Key Issues/Risks

- 9.1 The current ESPO agreement has four pre-qualified companies; if insufficient bailiff and debt recovery companies within the industry decide not to apply or fail to meet the basic requirements set by ESPO best value may not be achieved. This risk will be reduced by the recommended approach set out in section 4 above, provided at least four companies meet the standards of the framework agreement and remain within it.
- 9.2 There is always a concern that should incumbent service providers be unsuccessful there could be a decline in the level of service delivery from announcement to the commencement of the new contract, and in helping to facilitate due diligence and the transitional arrangements. It is considered that this is a low risk but the transitional period would be carefully managed.

Non-Applicable Sections:	Personnel implications
Background Documents: (Access via Contact Officer)	Parking and Enforcement Plan