


<p align="center">London Borough of Hammersmith & Fulham</p> <p align="center">CABINET MEMBER DECISION</p> <p align="center">21 March 2016</p>	
<p>APPROVAL TO PROCEED TO TENDER FOR A SHARED SERVICE ENFORCEMENT AGENT (BAILIFF) SERVICES CONTRACT FOR PENALTY CHANGE NOTICE (PCN) DEBT RECOVERY</p>	
<p>Report of the Cabinet Member for Environment, Transport & Residents Services</p>	
<p>Open Report</p>	
<p>Classification - For Decision Key Decision: No</p>	
<p>Wards Affected: All</p>	
<p>Accountable Director: Mahmood Siddiqi - (Director of Transportation and Highways)</p>	
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AUTHORISED BY:
The Cabinet Member for Environment, Transport & Residents Services has signed the Report

DATE: ...21 March 2016

1. EXECUTIVE SUMMARY

1.1 RBKC and H&F are required to re-procure their enforcement agent services contracts to coincide with the end of their extended terms in August 2016. Initial soft market testing has indicated that both boroughs can make efficiency savings by undertaking a joint tender for shared contracts. The core requirement of the

contract is for the successful bidder to recover Penalty Charge Notice (PCN) debt after the statutory process has reached warrant stage. (Appendix A shows the PCN recovery process).

- 1.2 RBKC currently contracts four companies to carry out the parking warrant recovery service. These contractors consist of: Marston Group Limited, Newlyn PLC, Task Enforcement Limited and Equita Limited. H&F contracts one company (Marston). Soft market testing revealed that other Local Authorities are tendering for two service providers to carry out the work. The contract will be let on the condition of no guarantee of receiving warrants for debt recovery. The Councils aim to start by giving all the initial work to the highest scoring tenderer, who will be monitored on performance using KPIs. The second provider will then take on the work that the first provider is unable to recover within specific periods of time depending on the circumstances under the same contract specification. Should the first provider default on any of the specified KPIs, the penalty will be that the work will be taken away and reallocated to the second appointed provider. This arrangement is to mitigate against the risk of a poor performing primary provider and to ensure that the recovery from the first provider is maintained at an optimum level.
- 1.3 This proposal recommends a minimum of two service concession contracts and there is no cost attributed to the main service, however, there may be commission based fees on added value services, which will be optional to the Councils over the full contract period, ranging from pre-debt data cleansing, change of address (returned mail) tracing and support with enforcement against persistent evaders.

2. RECOMMENDATIONS

- 2.1. That approval is given to undertake a joint tendering exercise for RBKC and H&F to procure a shared enforcement agent service to recover outstanding PCN debts for RBKC and H&F for a term of seven years with the option for a break clause in years three, and five to review performance.
- 2.2. That H&F is considered the lead borough for the procurement process, but it is desired that both councils would have the same contract and terms with the same provider. Each borough will enter into individual contracts to preserve sovereignty.
- 2.3. That it be noted that this is a concessions contract which is not subject to the Public Contracts Regulations 2015 and that being a concessions contract where there are statutory recovery fees the award criteria to be used shall be primarily quality based (to be detailed in the final Instructions to Tenderers).

3. REASONS FOR DECISION

- 3.1. Both boroughs have extended their current enforcement agent services contracts to the maximum expiry date which is 08 September 2016 at the latest. It is recommended that a single procurement for shared services contracts is carried

out to; minimise procurement costs, reduce staff contract monitoring time and enable continuity of PCN debt recovery for both Councils.

- 3.2. A new contract for each Council needs to be in place ahead of 31 August 2016 to ensure continuity of PCN debt recovery at warrant stage.

4. INTRODUCTION AND BACKGROUND

- 4.1 On 6 April 2014 both the Tribunals, Courts and Enforcement Act and Takings Control of Goods Act that came into force. Consequently, the contract and specification need to follow the legislation, including the fees that enforcement agents can charge being set by the Ministry of Justice.
- 4.2 The leading service providers in the market have not changed significantly over the last five years, however, the technology and way of delivering the services have. Some of the changes identified as part of our soft market testing exercises include: updated body worn cameras, enhanced tracing programmes and significantly improved added value services ranging from pre-debt data cleansing, change of address (returned mail) tracing and support with enforcement against persistent evaders.
- 4.3 Taking into account officer experience since the contracts were previously tendered, feedback received through the soft market testing exercise and recent examples from other boroughs, it is proposed that the focus of the specifications are on customer experience, maximising recovery with minimal complaints and added value services to enhance the recovery at the earlier stages of the PCN process.
- 4.4 During the soft market testing, officers identified a number of key benefits for a shared contract:
- Savings in contract management time as shared services officers are currently managing five contracts;
 - More opportunity for a strong partnership working arrangement within the shared parking service;
 - Improved lines of communication with one point of contact for the Councils and the customer;
 - The successful contractor can invest in new initiatives which will benefit both Boroughs;
 - The Council can ensure there is a strong local presence as customers of each Councils tend to be a customer in the other one;
 - Improvement in efficiencies when responding to issues and working together to get them resolved;
 - The customer will only have to deal with one company recovering parking debts for both Councils. This makes things easier when setting up payment arrangements and keeping fees low.
- 4.5 The estimated combined value of the contracts is worth £2.1million per year. This is split between £900K for RBKC, and £1.2million for H&F. The objective is to award the contracts by the end of August 2016.

5 PROPOSAL AND ISSUES

The proposed procurement process

- 5.1 A procurement exercise will commence in Spring 2016 for a shared services contract between the RBKC and H&F.
- 5.2 It is unlikely that the procurement is subject to the provisions of the Public Contracts Regulations 2015 as it is a concessionaire contract. At the commencement of the procurement exercise the EU Concessionaire Directive had not been enacted into UK law. However, the Council, in putting in place this contract must be mindful of the principles of ensuring that the procurement of the concession is carried out in an open and transparent way. Like all council procurements the opportunity will be made available on the *capitalEsourcing* portal and to ensure transparency the opportunity to tender will also be published on the Government's contracts finder website.

Proposals for the development of the contract documentation

- 5.3 The contract is being drawn up by the shared services legal services team in collaboration with shared parking services, who have established a project team to lead on creating the tender specification and evaluation criteria. The team have used the current contracts and previous tender specifications as a starting point from which to develop the new specification. Changes to the specification and contract are being made to take into account officer experience since the contracts were previously tendered, feedback from legal services, the soft market testing exercise, and recent examples from other boroughs.
- 5.4 The proposal is for an identical contract for RBKC and H&F for seven years with the option for a break clause in years three, and five to review performance. This allows all parties to take stock and end the relationship at year three or five, upon notice, if required. The review points enable both sides to assess the quality of service and identify changes for further efficiencies and operational enhancements.
- 5.5 The contracts will be signed by both councils. It is intended however for the day to day operational management of the services contract to continue to be managed and delivered by the shared parking services' finance and debt team.
- 5.6 Having explored the options with service providers during the soft market testing exercise and reflected on previous procurement terms, it is recommended that both Councils can achieve best value for money by entering into a longer term relationship together as this:
- gives bidders greater certainty and confidence to invest in new products and technologies;
 - allows the successful contractors to spread their investment costs over a longer period; and
 - reduces officer time involved in extending or retendering assuming performance meets the required standards

5.7 Please see Appendix B for a proposed timetable and details of the tender process.

Supplier Relationship Management and Monitoring

5.8 The contract will be monitored by the shared parking services finance and debt team, who will be responsible for monitoring performance and carrying out reviews on a quarterly basis. Reviews will look at overall performance against the service level agreement and look at future development / efficiency opportunities. KPIs will be based on the main key performance areas:

- Recovery action within particular time scales
- Recovery rates, both overall and at certain stages
- Complaints/customer care

5.9 Warrants for recovery assigned to the contractor would be reduced or withdrawn if the performance fails to meet the agreed standards. This falls broadly in line with how the current RBKC contract is managed, although the KPIs are not specified in the current contract.

6 OPTIONS AND ANALYSIS OF OPTIONS

The five options for service provision are;

6.1 To procure for a shared enforcement agency services contract agreement to award two enforcement agency service contracts for each Council. As there is no guarantee of work for each provider, the Councils will manage the work allocated to each provider as it sees appropriate to ensure best service/recovery. Therefore there will be four contracts in total. They will all be identical contracts and specifications for each Council. **Recommended option.**

The five main benefits of the recommended option are:

- H&F and RBKC will make efficiency savings on the new contracts plus benefit from significant enhancements to the service
- This will provide a single unit to manage the contracts for the two Councils and be a single point of contact for the contractors
- Joining both Councils onto the same platform allows for further streamlining of business processes and resulting efficiencies
- The successful contractors can invest in new initiatives which will benefit both Councils
- The successful contractors can ensure there is a strong local presence as customers of both Councils tend to be in the neighbouring one

6.2 To procure for a shared enforcement agency services contract agreement for the Councils for two enforcement agency service contracts, with two main contractors, commencing with a 50/50 workload split.

The three main benefits of the above option are:

- H&F and RBKC should make efficiency savings on the new contracts plus benefit from significant enhancements to the service
- There will be greater competition between the two Enforcement Agencies (EAs)
- Joining both Councils onto the same platform allows for further streamlining of business processes and resulting efficiencies
- To procure for a new single Council enforcement agency services contract.
- To enter into a call-off contract under an existing framework agreement for enforcement agency services.
- To cease the recovery of PCN debt using enforcement agents.

Risk Analysis

6.3 The following table outlines the high level risks and mitigating actions:

Risk	Mitigation
Fundamental risk if the contracts expire resulting in there being no debt recovery	Ensure procurement process commences on time and build in sufficient contingency to timelines
Possible risk of going single borough	Ensure risks and reasoning is fully evaluated
High level of interest from suppliers who do not have the requisite experience or financial standing to be acceptable to the two Councils	Ensure PQQ is robust and has suitable thresholds in terms of supplier experience and financial requirements

7 CONSULTATION

7.1 This report has been developed in consultation with the following groups:

- Transport and Technical Services Departmental Management Team
- Shared Parking Services Officers
- Enforcement agencies during soft market testing exercise

8 EQUALITY IMPLICATIONS

8.1 There are no equality implications as a result of the recommendations in this report.

9 SOCIAL VALUE CONSIDERATION

- 9.1 In accordance with the Public Services (Social Value) Act 2012 the Councils, as part of this procurement, will be considering a) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and, (b) how, in conducting the process of procurement, it might act with a view to securing the that improvement.
- 9.2 Given the proposed length of the potential service providers will need to consider such factors as apprenticeship schemes and developing their supply chains to support local businesses. This will be part of the award criteria used in the tendering exercise.
- 9.3 Examples of how they could meet this need are as follows:-
- Social Benefits – Supporting job seekers, training Council staff, supporting debtors in partnership with debt advice services. E.g. Debt surgeries.
 - Economic Benefits – Recruiting local people, apprenticeships, employment opportunities for job seekers.
 - Environmental Benefits – reducing the impact of the transportation used and waste materials.

10 LEGAL IMPLICATIONS

- 10.1 At present, public service concession agreements are not formally regulated. However if the concession agreement is of cross-border interest, the Treaty Principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment will apply to the process.
- 10.2 Legal Services will be available to advise and to prepare the contracts, where necessary.

Implications completed by: Kar-Yee Chan, Solicitor (Contracts), Shared Legal Services, 020 8753 2772

11 FINANCIAL AND RESOURCES IMPLICATIONS

- 11.1 The proposed contracts and the current provision are on a concession basis, where a fee is added to the recoverable debt by the enforcement agency. There are therefore no cost implications to the council.
- 11.2 The proposals in this report could result in efficiency savings, due to a single unit managing the contracts from both Councils and the ability to further streamline business processes. The improvements in delivery expected could also result in an improved recovery of PCN debt.

Comments provided by Gary Hannaway, Head of Finance, TTS - 0208 753 6071

12. IMPLICATIONS FOR BUSINESS

- 12.1 There are no implications for businesses resulting from the recommendations in this report.

13. PROCUREMENT IMPLICATIONS

- 13.1 The procurement will be undertaken by H&F as lead Council on behalf of both boroughs using the *CapitalESourcing* e-tendering system.
- 13.2 The service review project team has concluded that as since the procurement can be fairly well defined that it will be carried out using the "Restricted Procedure".

Comments verified by Alan Parry, Interim Head of Procurement (Job-share).
Telephone – 020 9753 2581

14. IT STRATEGY IMPLICATIONS

- 14.1 There are no ICT implications as a result of the recommendations in this report.

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	N/A		

LIST OF APPENDICES:

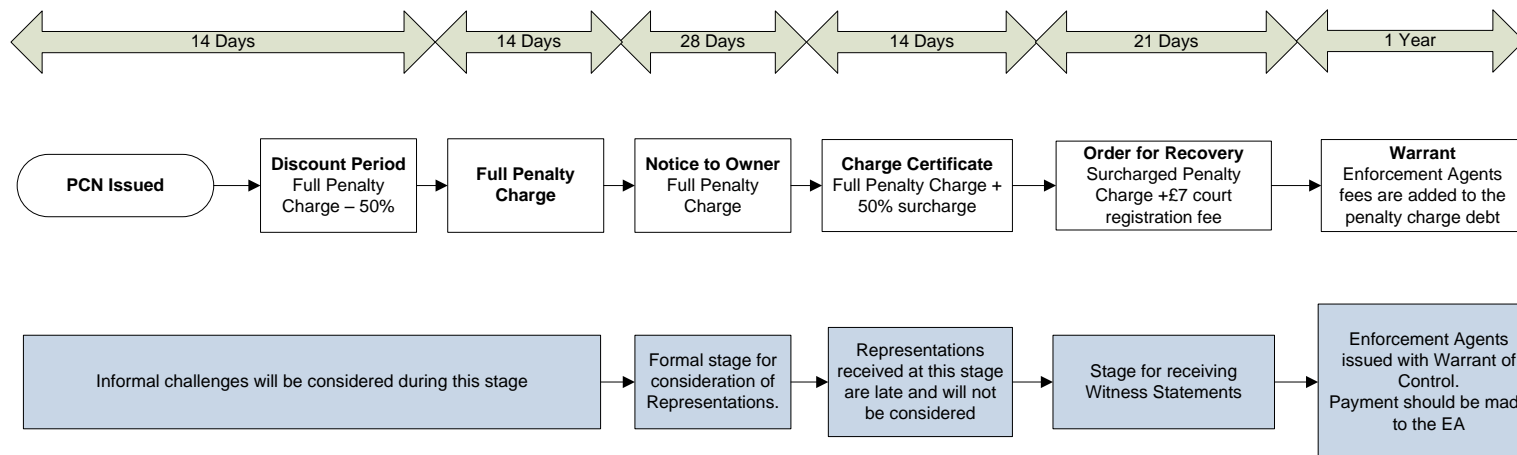
APPENDIX A – PCN Recovery Process

APPENDIX B – Proposed Process

APPENDIX A – PCN Recovery Process

PCN Lifecycle: v1.5

Process Description: The following process shows the increases in charges for Penalty Charge Notices (PCNs) once they have been issued



NOTES:

Penalty Charge Rates

1) Higher Rate Discount Rate £65 -> Full Charge Rate £130 -> Full Charge +50% Rate £195> Full Charge + 50% + £7 Rate £202

2) Lower Rate Discount Rate £40 -> Full Charge Rate £80 -> Full Charge +50% Rate £120> Full Charge + 50% + £7 Rate £127

The amount payable by the customer will consist of the full penalty charge fee plus the additional Enforcement Agents fees according to statute

Disclaimer: Charges are applicable to change at any point.

APPENDIX B – Proposed Process

1.1. High level procurement timetable:

Activity	Start	Finish
Establish project team, set up tender appraisal panel and confirm procurement approach and plan*	September 2015	December 2015
Soft market testing / market analysis	October 2015	October 2015
Cabinet approval process to launch tender	March 2016	March 2016
Prepare selection criteria, tender evaluation criteria and contract documents	November 2015	February 2016
Review documents and sign off evaluation criteria (Gate 1)	March 2016	March 2016
Complete preparation of contract and tender documents	March 2016	April 2016
PQQ and Invitation to tender	April 2016	May 2016
Tender evaluation	May 2016	May 2016
Sign off recommendation (Gate 2)	June 2016	July 2016
Contract Award (delegated approval)	July 2016	July 2016
Implementation	August 2016	August 2016

Proposed tender evaluation and information

Expressions of Interest

- 1.2. An initial assessment of potential providers will take place at the expression of interest stage, using the Tri-Borough procurement portal. Tenderers will be asked to complete a pre-qualification questionnaire which will be used to assess financial standing, experience, technical capacity and organisation capability.

Tenders

1.3. The contract will be awarded on the basis of the most economically advantageous tender. It is proposed to weight company experience at 30% and service provision at 68% each. The submission of tender will be weighted at 2%. This approach allows us to seek a higher quality ratio to minimise the risk of reputation to the service, whilst carrying out a high complaint risk service, and as far as possible continuity and improvement of service delivery. The potential of added value services that may be achieved could maximise income recovery and provide enhanced services for both the Councils and its customers.

1.3.1 Marks will be awarded across the following:

- Company Experience: 30%
- Service Provision: 68%
- Compliance with Tender Submission 2%