

Committee: Cabinet

Date:

Wards: All

Subject: Renewal of Shared Enforcement Agent (bailiff) Service with Sutton

Lead officer: Caroline Holland

Lead member: Councillor Mark Allison

Contact officer: David Keppler

Recommendations:

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1. To agree the renewal of the shared Enforcement Agent (bailiff) service with Sutton council from August 2018
 2. Delegate to the Director of Corporate Services authority to approve and negotiate any new contract and surplus allocation for additional parking debt income collected
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report details the proposed extension of the shared Enforcement Agent service with Sutton council.

2 DETAILS

- 2.1. Merton have operated an in-house bailiff service since 2006 which over the years expanded to incorporate collection of council tax, business rates and parking debts.
- 2.2. The advantages of an in house service over a private company include having more control over the strategy for collecting debts, ensuring a more customer focused approach to collection is adopted, employing local staff and retaining any surplus from the operation.
- 2.3. As part of the budget process on 12 December 2011 Cabinet agreed the implementation of a shared bailiff service with Sutton council with a proposed budget saving through additional income to be implemented from 2013/14 financial year.
- 2.4. During 2012 discussions with Sutton resulted in the shared service being implemented from 1 August 2012 for a five year period with the option of an additional year.
- 2.5. The shared service arrangement with Sutton only covered work relating to debt owed to Sutton council. The cost of this service was met by the fees and statutory fees that can be charged for collecting debt and then any surplus was split equally between Merton and Sutton.
- 2.6. Merton's initial business case was proposed an income surplus of £150,000 per year based on estimated volume of cases and fees charged.

- 2.7. Following a complaint the Ombudsman recommended that Merton review the way it calculated its bailiff charges. Rather than a set fee be charged consideration had to be given to the actual time a bailiff spent on a case including travel time. This resulted in a lower fee structure being implemented.
- 2.8. In April 2013 the Government introduced the Taking Control of Goods Act which changed the way bailiffs could work and implemented the only statutory fees that could be charged.
- 2.9. The changes mentioned above resulted in the initial business case estimate not being achieved throughout the term of the contract, although both Councils achieved a surplus on operating costs.
- 2.10. The shared service did make a surplus each year and this is detailed in appendix 1
- 2.11. In addition to the financial gain of operating an in house and shared service a more customer focused approach is adopted and this strategy is determined by the Merton and Sutton shared board.
- 2.12. The approach allows for us to go beyond statutory minimum standards. Examples of this are:-
- Customers are given an extended period of 7 days, to the statutory requirement, at Compliance stage (where a letter is sent before an enforcement agent is instructed) to pay or make a payment arrangement.
 - Enforcement agents are encouraged to enter into payment arrangements, officers can make arrangements on cases, and removals are only ever undertaken as a last resort.
 - The CAB are given direct access to managers to escalate complaints or cases.
 - In the past year specialised training has identified and delivered, on identifying vulnerability and being dementia friendly to all enforcement agents.
 - Under the Taking Control of Goods Act, persons only have to reach Level 2 to become an enforcement officer. All of our enforcement officers have to reach a minimum of Level 3 (higher standard) of the scheme.
 - (All of the above are also applicable for the Merton only service and the collection of Merton cases).
- 2.13. Both council's use external companies to collect "out of area" cases. Where a debtor has moved away or their vehicle is registered elsewhere in the country external companies are used to try to collect the debts.
- 2.14. The renewal of the shared service arrangement will be for a three year period with an option to extend by an additional year twice. This could result in a five year contract overall.

- 2.15. In the past few months there has been an increase in volume of unpaid parking fines from Sutton and due to an extension of camera offences in Sutton this is likely to grow.

Sutton feel that they should receive a larger proportion of any surplus income from this additional growth of work and negotiations are continuing. At this stage nothing has been agreed other than any re-distribution will only be for the additional income derived from the increase in parking debts.

3 ALTERNATIVE OPTIONS

- 3.1. Not to extend the shared service arrangement and let Sutton make their own arrangements.
- 3.2. If the shared service arrangement was not extended then TUPE arrangements would need to be considered for staff in the current team alongside the need to find alternative savings for the loss of income.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Sutton council have agreed this proposal to extend the arrangement under delegated powers from committee.
- 4.2. Consultation with Sutton council is ongoing regarding the extension of the contract, period, allocation of the surplus for the additional parking debts and the possibility of a joint procurement for external enforcement agent contractor, for out of area debts.

5 TIMETABLE

- 5.1. The timetable for renewing the shared service contract is detailed below

Pre-contract discussions	January 2018 to March 2018
Initial agreement from Sutton to extend contract	March 2018
Negotiations on contract terms	April 2018 to July 2018
Drafting of new contract	May 2018 to July 2018
Agreement from Cabinet	June 2018
Formalising staffing arrangements	July 2018
New contract commences	August 2018

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The original business case for the shared service proposed that Merton would generate £150,000 surplus per year based on estimated volume of cases and the fee structure at the time of the business case.

- 6.2. While this has not been achieved the business model for service delivery and the structure have proved sound with both Council's seeing a surplus on operating costs.
- 6.3. Appendix 1 details the cost of the shared service, income received through fees and surplus for each council.
- 6.4. Any cessation of this service delivery model may result in TUPE being applied to current personnel and a process will be undertaken in accordance with HR processes and best practice. There would also be a need to find alternative savings to offset the loss of income.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. If the shared service is extended and there are changes regarding the surplus allocation for additional parking debt income the original collaboration agreement should either be amended to reflect the changes or the Council will be required to enter into a new agreement with Sutton Council.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. The Taking Control of Goods Act and best practice stipulates how vulnerable clients should be dealt with the in house team strictly adheres to these processes. Additional training on dealing with vulnerable clients has been provided and all enforcement agents have been on Dementia training.
- 8.2. Sutton council have signed a council tax protocol for council tax collection with the CAB which the shared service adheres to.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purpose of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. Risk assessments have been undertaken on the service and over recent years new measures put in place to help and support the team
- 10.2. All enforcement agents are issued with stab vests and body worn cameras to protect against aggressive and potentially aggressive customers
- 10.3. All vehicles have trackers so that the office are able to identify if one has been in the same location for too long and measures are taken to ensure the officer is safe.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1 – Financial Information from the Shared Service (exempt or confidential document)

12 BACKGROUND PAPERS

- 12.1.

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