

# Decision Pathway – Report



**PURPOSE:** Key decision

**MEETING:** Cabinet

**DATE:** 18 January 2022

<b>TITLE</b>	<b>Procurement of Collection and Enforcement Agent Services</b>		
<b>Ward(s)</b>	All		
<b>Author:</b> Kevin Smith	<b>Job title:</b> Operations Manager, Revenues		
<b>Cabinet lead:</b> Cllr Craig Cheney (Deputy Mayor and Cabinet member for Finance, Governance, Property and Culture)	<b>Executive Director lead:</b> Mike Jackson, Executive Director (Resources) and Head of Paid Service		
<b>Proposal origin:</b> BCC Staff			
<b>Decision maker:</b> Mayor <b>Decision forum:</b> Cabinet			
<b>Purpose of Report:</b> 1.1 To seek approval for the procurement of enforcement agent services, to include collection agent and high court enforcement, for the collection of monies owed to the Council and award of contract.			
<b>Evidence Base:</b> 2.1 There is tacit understanding that the Council’s approach to debt collection must be underpinned by an ethical collection approach to transform collection activity. This approach continues to be trialled in the Revenues service, with omni channel communication strategies and local outreach work being utilised to break down communication barriers, thereby ensuring that local customers who are financially vulnerable receive targeted support to enable them to break the circle of debt to, in turn, improve their mental health and wellbeing. 2.2 The Council has a range of options open to them when they decide to take further action following a missed instalment, for example depending on the specific circumstances, making an attachment of earnings or a deduction from benefits can be an effective way for residents who fall into arrears to repay debt over a sustainable period. Where possible, the Council should seek to use these options before taking other action, such as referring a case to enforcement agents. 2.3 Whilst understanding that the Council is on a pathway to ‘transform debt’ through the wider utilisation of ethical debt collection initiatives, there will be a need for some enforcement activity where previous efforts to engage with a customer have not succeeded, for those who ‘won’t pay’ rather than ‘can’t pay’ or in cases involving persistent non-payers. Our ongoing work with third sector advice agencies and our partnership with the Money and Pensions Service continues to minimise the number of cases that need to be referred to collection or enforcement agents for collection. 2.4 The Council currently employs Enforcement Agent Companies to assist in the recovery of unpaid council tax, business rates, business improvement district levy, commercial rent, Parking Services related debt and sundry debt. The current service level agreements in place for all debt types excluding Parking have been in place since 2014, have been extended to ensure the service is maintained and contracts can be aligned. Parking Services current contract ends on 30 April 2022. 2.5 Enforcement Agents collect their fees, which are now laid down in legislation, from the debtors who owe the outstanding amounts. In relation to the Council’s contracts the fees collected by Enforcement Agents and High			

Court Enforcement Officers can be in the region of £500,000 per annum per company. The last full year for which data is available pre COVID-19 (the financial year 2019/20) shows that 23,876 referrals were made to enforcement agents and total fees retained by enforcement agents across all debt types was £1.78m. Most of these fees, 66% (£1.17million), related to Parking Services activity. This compares to a total of £0.069m for all debt types and cases issued during 2020/21 of which 100% related to Parking Services activity.

- 2.6 The Council has not instructed High Court Enforcement Officers in the previous five years but if they were instructed, they would collect their fees, again which are laid down in legislation, from the debtors who owe the outstanding amounts.
- 2.7 Where enforcement agents act as Collection Agents there are no statutory fees payable, instead the Council pays commission on the sums collected. Commission rates vary from 10% to 20%, but at a rate of 10% would equate to a maximum of £100,000 per annum across all sundry debt income streams.
- 2.8 Enforcement Agent companies will also undertake activity such as the execution of warrants of arrest or service of legal documents for an agreed fee, the total cost of which is not expected to exceed £5,000 per annum combined.
- 2.9 In order to satisfy current legislative requirements, the Council needs to undertake a procurement process to obtain the services of at least two Enforcement Agent Companies to continue to support recovery in the aforementioned service areas. Commissioned enforcement agents are working on behalf of the Council and it is the Council's responsibility to ensure that agents work within the guidelines set by the Council and that they comply with the regulatory framework and the national standards. The Council's contracts with enforcement agents will include common standards for assessing vulnerability. Agents should be able to quickly provide the Council with information that can be used to tailor subsequent action. Such information will also allow the Council to determine whether the customer (if resident) is eligible for any benefits, discounts or exemptions that are not being claimed. The evaluating team will assess provider's commitment as part of our tender evaluation mechanism. The Council will monitor the practices of enforcement agents closely to ensure compliance with our standards.
- 2.10 Effective use of enforcement agents can also be an important way of recovering debt where the Council is satisfied that there are no other appropriate mechanisms for recovering that debt, and enforcement agents can also play an important role in identifying potential vulnerabilities. We will use enforcement agents to collect debts only where there has been no engagement from the customer or where alternative recovery options have not been successful or are not appropriate.
- 2.11 The proposal is to procure a contract for 5 years (4 years with an optional 1-year extension). The route to market will be via call off from an OJEU compliant external framework. Bidders will be influenced to include a social value proposal for evaluation and as part of any specification, suppliers will be required to have vulnerability policies and adhere to strict guidelines for the collection of debt from households that may contain children. The Council will seek advice for the guidelines from charities that work with children and debt advice services.
- 2.12 The Council has a duty to recover outstanding debts and the effective use of enforcement agents can also be an important way of recovering debt where the Council is satisfied that there are no other appropriate mechanisms for recovering that debt. Failure to procure these services will limit the ability of the Council to collect monies that are due yet remain unpaid and failure to deliver our obligation to the local taxpayer. This procurement exercise will join up enforcement activity across those service areas with a need to use collection and enforcement agents to recover unpaid monies owed to the Council and will minimise the requirement for multiple visits for different debts. In addition, this exercise will provide the headroom and option for any Council services to utilise those services procured.

**Cabinet Member / Officer Recommendations:**

That cabinet:

1. Authorises the Director of Finance in consultation with Deputy Mayor, Cabinet member for Finance, Governance Property and Culture, to procure and award the contract(s) necessary for enforcement agent services for a

maximum of 5 years (inclusive of the 1-year optional extension period) from 01 April 2022 within the existing budget envelope of £0.525m.

2. Authorises the Director of Finance in consultation with Deputy Mayor, Cabinet member for Finance, Governance Property and Culture to invoke any subsequent extensions / variations specifically defined in the contract(s) being awarded, up to the maximum specific service budget available for this purpose at the time.

#### **Corporate Strategy (2018) alignment:**

4.1 Procuring as outlined in this report would allow a link to the following themes:

##### **Empowering and Caring:**

- Help disadvantaged members of the community through 'help to help yourself' and 'help when you need it'.
- Supporting those who are suffering from financial distress.
- Minimising contact from multiple enforcement agents where there are multiple debts.

##### **Well Connected:**

- Improve physical and geographical connectivity, tackling congestion

##### **Wellbeing:**

- Keep Bristol on course to be run entirely on clean energy by 2050 whilst improving our environment to ensure people enjoy **cleaner air**, cleaner streets and access to parks and green spaces.

##### **Our Organisation:**

- Be responsible financial managers

#### **Draft Corporate Strategy (2021) alignment:**

4.2 Procuring as outlined in this report would allow a link to the following themes:

##### **Theme 3 – Environment and Sustainability**

- Carbon neutral – Work towards reducing emissions, helping the Council reach net zero.
- Ecological Recovery – Reduce emissions thereby allowing ecological recovery.

##### **Theme 4 – Health, Care and Wellbeing**

- Disability – making sure disabled parking bays are free for use by those in need.
- Mental Health and Wellbeing – work with partner and third sector advice agencies to ensure that those customers who are most vulnerable and who need assistance receive an appropriate level of support.
- Supporting those who are suffering from financial distress.
- Minimising contact from multiple enforcement agents where there are multiple debts.

##### **Theme 6 – Transport and Connectivity**

- Connectivity - Improve physical and geographical connectivity, tackling congestion
- Improved Bus Services – through reducing congestion.
- Safe and active Travel – by tackling congestion and prioritising traffic flow.

##### **Theme 7 – A Development Organisation**

- One Council – by procuring as one organisation.
- Good governance – by being responsible and financially competent.

#### **City Benefits:**

5.1 Income recovered provides an important proportion of the funding which enables local authorities to provide vital services including adult social care, children's services, refuse collection, and leisure facilities. The efficient collection of debt allows local authorities to consistently make this broad range of services available to the wider community.

5.2 Enforcing bus lane regulation and parking restrictions; improves bus reliability / frequency which in turn allows those without access to a car to be able to access work, shops, family and friends. Encourages motorists to switch their mode of transport from car to bus. This contributes to reducing pollution which in turn improves citizen's health and allows blue disabled badge holders to access vital services. It also assists in making pavements safer for those with visual impairments and wheelchair users.

5.3 In line with the Social Value policy, we will seek additional economic, social and environmental benefits for Bristol

when procuring this contract.

**Consultation Details:**

6.1 Key internal stakeholders across multiple service areas have been engaged as well, Executive Director Meetings (EDM) and Cabinet Member Briefings.

**Background Documents:**

<https://www.bristol.gov.uk/policies-plans-strategies/corporate-strategy>

<b>Revenue Cost</b>	Option up to £250k / £275k respectively	<b>Source of Revenue Funding</b>	General Fund – Revenue Service budget Housing Revenue Account
<b>Capital Cost</b>	£NIL	<b>Source of Capital Funding</b>	N/A
<b>One off cost</b> <input type="checkbox"/>	<b>Ongoing cost</b> <input checked="" type="checkbox"/>	<b>Saving Proposal</b> <input type="checkbox"/>	<b>Income generation proposal</b> <input type="checkbox"/>

**Required information to be completed by Financial/Legal/ICT/ HR partners:**

**1. Finance Advice:** The request is to procure and award contract(s) for enforcement agent services for the collection of statutory fines and sundry debts owed to the Council and some low-level additional activities. The contract(s) would be for a minimum 4 years/maximum 5 years.

Data for the full year 19/20 indicates a statutory fine total value of £1.8m p.a.

Commission on General Fund sundry debt collection is estimated (at circa 10%) to be worth £0.050m p.a.

Additional activities including the execution of warrants of arrest and the service of legal documents is estimated to be worth £0.005m p.a.

Commission on HRA sundry debt collection is estimated to be worth a further £0.050m p.a. and this provides the option for this contract to also be utilised, minimising procurement costs and impact on residents of multiple agent visits for different debt types.

Therefore, the not-to-exceed 5-year contract value is £9.525m.

Only the additional activities, total £0.105m p.a. or £0.525m over 5 years, are to be funded by BCC. The cost for these is covered by the Revenues service and HRA current annual budget envelope as detailed above.

**Finance Business Partner:** Jemma Prince, Finance Business Partner – 05 January 2022

**2. Legal Advice:** The procurement process must be conducted in line with the 2015 Procurement Regulations and the Councils own procurement rules. Legal services will advise and assist officers with regard to the conduct of the procurement process and the resulting contractual arrangements.

**Legal Team Leader:** Husinara Jones, Team Leader/Solicitor – 05 January 2022

**3. Implications on IT:** No anticipated impact on IT/Digital Services

**IT Team Leader:** Simon Oliver, Director – Digital Transformation – 06 December 2021

**4. HR Advice:** This is a potential service provision change and may result in TUPE Regulations applying. Unless the service is brought back in-house, it is a matter between the incumbent and new contractor, who will need to assess the current service and then consider if the new service is fundamentally the same and those employees who are specifically assigned to it. Under TUPE Regulations, those employees who then benefit from employment protection.

**HR Partner:** James Brereton (HR Business Partner) – 07 December 2021

<b>EDM (Res) Sign-off</b>	Mike Jackson	10 Nov 2021
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<b>EDM (G&amp;R) Sign-off</b>	Donald Graham	10 Nov 2021
<b>Cabinet Member (Finance, Governance, Property and Culture) Sign-off</b>	Cllr Craig Cheney	18 Nov 2021
<b>For Key Decisions - Mayor's Office Sign-off</b>	Mayor's Office	20 Dec 2021

<b>Appendix A – Further essential background / detail on the proposal</b>	<b>NO</b>
<b>Appendix B – Details of consultation carried out - internal and external</b>	<b>NO</b>
<b>Appendix C – Summary of any engagement with scrutiny</b>	<b>NO</b>
<b>Appendix D – Risk assessment</b>	<b>NO</b>
<b>Appendix E – Equalities screening / impact assessment of proposal</b>	<b>YES</b>
<b>Appendix F – Eco-impact screening/ impact assessment of proposal</b>	<b>YES</b>
<b>Appendix G – Financial Advice</b>	<b>NO</b>
<b>Appendix H – Legal Advice</b>	<b>NO</b>
<b>Appendix I – Exempt Information</b>	<b>No</b>
<b>Appendix J – HR advice</b>	<b>NO</b>
<b>Appendix K – ICT</b>	<b>NO</b>
<b>Appendix L – Procurement</b>	<b>NO</b>