

AGENDA ITEM: 10

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Meeting	Cabinet Resources Committee
Date	27 July 2006
Subject	Parking Contract, Provision of Bailiff Services
Report of	Cabinet Member for Environment and Transport Leader of the Council/Cabinet Member for Resources
Summary	This report seeks approval to go out to tender through the European Procurement Regulations on a voluntary basis for the provision of debt recovery services for the parking contract. The report looks further at the proposed structure for the new arrangements designed to enhance the debt recovery figures.

Officer Contributors	Mike Freestone, Head of Highways and Environment
Status (public or exempt)	Public
Wards affected	Borough Wide
Enclosures	Appendix A
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	N/A

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1. RECOMMENDATIONS

- 1.1 That the Council go out to tender through the European Procurement Route on a voluntary basis for the provision of bailiff services to recover unpaid Penalty Charge Notices (PCN's). The proposed contract period is four years.
- 1.2 That Members note that it is the Council's intention to appoint a number of Bailiff Companies, under a Framework Agreement, to enhance the flexibility of the Service and to maximise potential income to the Authority.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 There are no relevant previous decisions.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Council has developed a clear vision about its priorities and what it wants to achieve based on "putting the community first" as reflected in the findings from resident surveys. The Corporate Plan's sixth priority is to be a better Council for a better Barnet with the aim to be an excellent organisation. In order to achieve this objective the Council needs to continuously improve how it works and the services it provides to deliver its priorities.
- 3.2 The Traffic Management Act 2004 requires Local Traffic Authorities to effectively manage their road network by maintaining or improving the movement of traffic, preventing or reducing congestion and avoiding danger to persons or other traffic and should not delay in taking such actions to fulfil these responsibilities. The contract for the provision of bailiff services for the recovery of debt relating to unpaid parking penalties will strengthen the parking strategy for the borough and seek to meet the aims and objectives as set out above.

4. RISK MANAGEMENT ISSUES

- 4.1 A Risk Management Working Group has been set up to take this service forward. From the outset the project has been subject to ongoing and robust risk management processes that seek to identify, evaluate and mitigate all possible risks.
- 4.2 A risk management register has been developed in accordance with Barnet procedures. The risk register seeks to identify, evaluate and mitigate all possible risks. Throughout the procurement phase of this project the risk register will be reviewed and refined by the Risk Management Working Group.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 There are no cost implications to the Council for the services provided by the bailiff companies as the execution of warrants is self financing, however reduction in performance may result in a loss of revenue to the Council. .

The bailiff companies derive their income by charging fees to the debtor, in addition to the debt owed to the Council which is recovered. The fees that the Bailiff companies may charge are laid down in Schedule 1 of the Statutory Instrument no. 2072 (L17) – ‘The Enforcement of Road Traffic Debts (Certificated Bailiffs) Regulations 1993’. In all cases no fees shall be recovered by the bailiff company in the event that either the Council request the return of a warrant or where the bailiff company fail to enforce the warrant.

- 5.2 Further detail on the various charges a bailiff can make and the total value of the bailiff fees collectable is set out in the main body of the report.

6. LEGAL ISSUES

- 6.1 None.

7. CONSTITUTIONAL POWERS

- 7.1 Constitution, Part 3 - Responsibility for Functions, Section 3 - Powers of the Executive, paragraph 3.6 - terms of reference of the Cabinet Resources Committee. **To check**

8 BACKGROUND INFORMATION

- 8.1 In previous years this service has been procured through the use of a number of Bailiff Companies with the Council’s aims and objectives set out in a contractually binding Service Level Agreement, dated 1 July 2002.
- 8.2 Procurement officers within the Authority have established that this Service falls under Annex II B of the EU Public Procurement Directive 2004/18/EC. Given the potential value of the contract and to ensure best practice is followed, the most efficient way for the Council to comply with the rules and to protect its position is to advertise the contract on a voluntary basis in OJEU.

Recovery Procedures

- 8.3 As part of its parking duties, the London Borough of Barnet (‘the Council’) issues Penalty Charge Notices (PCN’s) to motorist contravening the Council’s Parking Regulations. When a customer fails to pay a PCN, the Council follows a statutory process as set out in the Road Traffic Act 1991 (as amended), in order to recover all revenues owed to the Council.
- Penalty Charge Notice is issued (if payment is received within 14 days of issue, a 50% discount applies to the penalty charge);
 - After at least 28 days, a Notice to Owner is served to the registered keeper of the vehicle (the discounted rate no longer applies);
 - After at least 28 days of the serving of the Notice to Owner, a Charge Certificate is served to the registered keeper. The charge is increased by 50%;

- After at least 14 days of the serving of the Charge Certificate a request is made to register the penalty as a debt (a £5 court registration fee is added to the outstanding charge) ;
- After at least 21 days, a Warrant of Execution is granted and the debt passed to a certified bailiff company.
- The bailiff will then take steps, as permitted in law, to recover the amount due and add charges for sending letters and making visits.
- The warrant will be returned to the Council if the bailiff is unable to collect the debt. Reasons for this include, that the debtor is not at the address provided, or that there are insufficient goods to collect or the address does not exist.

8.4 A Bailiff may enforce warrants of execution on behalf of the Council but first must be personally authorised to do so by the Council's representative. All warrants remain the property of the Council at all times and the Bailiff's employers must immediately notify the Council's representative if any warrant is either lost or stolen. The Council's Representative may withdraw authorisation of an individual bailiff at any time and will do so where it is considered:-

- That a Bailiff has not acted within the scope and spirit of the prevailing legislation
- That a Bailiff has failed to maintain the highest ethical and professional standards
- That a Bailiff has not represented the Council in a responsible and courteous manner when dealing with its Customers
- That a Bailiff has failed to process cases in a sensitive, firm but fair manner.

8.5 The Council intends to appoint multiple Bailiff Companies under a Framework Agreement. The number of companies and the division of workload will be specified in relation to the likely income generated in a particular year. However, there are several factors which affect the total value of bailiff fees collectible from an agreement, these include:

- Volume of warrants given to the bailiff company;
- The average of the warrants given to the bailiff company (some bailiff fees are calculated as a percentage of the outstanding debt);
- The amount and type of activity carried out against each warrant and therefore the charges raised; and
- The proportion of warrants the bailiff company successfully collects.

Volume of Warrants

8.6 The issue of a warrant of execution comes near the end of the process of recovering a PCN. The preceding steps are often varied and diverse. For example, challenges may be made against the validity of the penalty and legal challenges made against the collection process, either of which may cause the recovery process to be extended by up to three months.

8.7 It is therefore difficult to forecast with accuracy the volume of warrants the Council will generate. However, certain parameters can be established using previous years as a guide:-

- In the financial year 2005/06, 41,497 warrants were sent to bailiff companies.

Average Value of Warrants

8.8 The Council issues “Band A” PCNs for CCTV contraventions and “Band B” PCNs for contraventions witnessed by Parking Attendants. These are normally valued at £155 and £125 respectively. The proportion of CCTV contraventions which end up as warrants is similar to the proportion of Parking Attendant contraventions.

8.9 The proportional mix of these differently charged contraventions affects the average value of warrants passed to bailiff companies. Therefore, it is difficult to accurately forecast the mix of warrant values based on a measurement of the mix of recorded contraventions, as recovery timescale and conversion/payment/cancellation rates can vary. However, the future mix is expected to be significantly different to that of 2005/06 – the split being 15.2% / 84.8%.

8.10 In 2006/07, the mix of contraventions are forecast to be 19.3% by CCTV and 80.7% by Parking Attendant. This increase from 15.2% to 19.3% is primarily due to Saturday enforcement of CCTV bus lane cameras. These figures have now been used as the basis for the Parking’s Budget predictions for 2006/7. Therefore by multiplying out, we can now forecast the average value of the resultant warrants.

	Contraventions	Proportion	Normal value
CCTV	39,160	19.3%	£155
PA	164,136	80.7%	£125
		Average value	£130.78

This average value can now be used in the calculation of future bailiff fees.

Activity carried out against each warrant

8.11 A summary of the various charges a bailiff company can make when enforcing a warrant of execution are listed below. Legal Services have advised that the bailiff companies charge VAT on these charges, but should not be included in the context of this report, as they are effectively paid to the Crown.

- Letter - £11.20
- Levying distress - 28% of the debt
- Storage - £5.60 per day
- Appraising (valuing) goods – Reasonable fees, charges and expenses
- Removing goods, or attending to remove goods where no goods are removed – Reasonable costs and charges
- Auction costs – 15% of the sum realised plus reasonable cost of advertising, removal and storage
- Where distress is withdrawn or no sale takes place – Reasonable fees, charges and expenses

8.12 On average each warrant attracts two letter fees as per the recovery timetable and distress is then levied on the outstanding amount (including the letter fees).

The likely calculable charges to be raised against each warrant are therefore:

Letter fees = £22.40 (£11.20 x 2)

Levying distress = £42.89 (levied at 28% of outstanding balance of £130.78 + £22.40)

Total = £65.29

Proportion of warrants the bailiff company successfully collects

8.13 In order to gauge the success rate for the collection of outstanding debts it is necessary to look at warrants which have sufficient age to have allowed them to be fully processed, but are recent enough to reflect current and future business activity. Set out in the attached Appendix A is the parking data in relation to collection and recovery value for warrants issued in 2004 / 05. Officers have analysed the warrants issued in the period November 2004 to October 2005, as these will have been in the bailiffs' hands for at least six months. Of these warrants 9.84% have been paid to date.

8.14 Taking this percentage forward then the anticipated value of bailiff charges raised for the year is (£2,709,339); this gives us an expectation that the bailiff companies will receive **£266,599** in bailiff charges in an average year.

Service Objectives

8.15 As can be seen from above there is a considerable income that the Council can derive from the successful delivery of this service. The major service objectives that the Council expect from the tendering of this service are as follows:-

- The Council's quality procedures and performance standards are comprehensively met;
- Debt due is collected;

- The Contractors performance of the Service represents good value for money
- All viable service improvement opportunities are continually explored and where practical, implemented
- A partnership relationship is developed based on trust, mutual respect and Customer focus.

Tendering Process

8.16 Given that the contract is being tendered on a voluntary basis under OJEU, it is officer's intention to adhere to the Barnet Restricted timetabling procedure which facilitates a faster procurement process and has no adverse effect on costs or resources. Expressions of interest will be requested from suitably qualified and experienced contractors / consortia. Bidders will be required to express an interest in providing these services by completing and returning a Pre Qualification Questionnaire (PQQ). The PQQ will be used as a first stage evaluation process. Bidders will be assessed in relation to technical ability, financial standing, capacity, and experience in similar work, health and safety practices. Quality procedures, equal opportunities and compliance issues. It is anticipated that the contract will be awarded this financial year.

Conclusion

8.17 In conclusion, given the opportunity that it exists:

- to maximize the collection of debt due to the Council;
- to provide a robust parking enforcement regime;
- to ensure best practice is employed in the procurement of his service;
- to achieve the service objectives set out above; and
- to minimize the possibility of any procurement challenge to the Council

it is important that the service is tendered on a Voluntary basis under the European Procurement regime.

9 LIST OF BACKGROUND PAPERS

- 9.1 Agreement for appointment of Bailiffs for Road Traffic Act 1991 – dated July 2002.
- 9.2 Background Papers – Potential Value of an Agreement to provide Bailiff Services – dated 8 May 2006
- 9.3 Any person wishing to inspect the background papers listed above should contact telephone no. 020 8359 3032.

Legal: PJ
CFO:CM

Appendix A

Parking Contract Provision of Bailiff Services

Warrants issued in 2005/06 (used to forecast volume of warrants)	
Number of warrants issued in 2005/06	41,497
Warrants issued in 2006/07 (used to forecast average value of warrants)	
Proportional split of £155 / £125	19.3% / 80.7%
Average value of each warrant	£130.78
Charges per warrant	
Letters	£22.40
Levying distress @ 28%	£42.89
Total charges	£65.29
Total annual charges	£2,709,339
Warrants issued Nov04 to Oct05 (used to forecast expected collection)	
Number of warrants issued Nov04-Oct05	39,135
Number of warrants issued Nov04-Oct05 and paid to date	3,850
% of warrants issued Nov04-Oct05 and paid to date	9.84%
Total annual charges likely to be collected	£266,599