



REPORT OF THE INTERIM SERVICE DIRECTOR, HIGHWAYS

CIVIL PARKING ENFORCEMENT: ENFORCEMENT AGENT (BAILIFF) CONTRACT AWARD

Purpose of the Report

1. Following an NCC Invitation to Tender in December 2014 for enforcement agents to support Civil Parking Enforcement, 6 eligible tenders were received and assessed against the declared criteria in accordance with the Public Tenders Regulations 2006 by a panel of officers.
2. The purpose of this report is to note the award of a contract for enforcement agent services to the four companies who scored highest against the published criteria.

Information and Advice

3. Nottinghamshire County Council assumed responsibility for on-street parking enforcement in 2008 from the Police. The County Council has since delivered this service in partnership with the District and Borough Councils in an arrangement called the Notts Parking Partnership. A key part of that partnership is a single back office (the Central Processing Unit or CPU) that undertakes all the administration on behalf of the Notts Parking Partnership. The CPU has subsequently expanded to provide the service for most of the Local Authorities in Derbyshire and Lincolnshire to the extent that including the County Council, there are 23 partner authorities using the same back office.
4. The Traffic Management Act 2004 provides the legislative framework for local authority parking enforcement. Once issued Penalty Charge Notices (PCNs) follow a series of pre-determined stages and ultimately if the PCN remains unpaid, the authority has no realistic option other than applying for a warrant to be allocated to an enforcement agent. Prior to the Taking Control of Goods Act 2014 (TCG) which is outlined below, enforcement agents were routinely known as bailiffs.
5. In 2009, the County Council procured the use of 4 bailiff companies to support the collection of PCNs. This framework contract was also used by the partner Authorities who currently use the CPU to process PCNs. The CPU applies for approximately 10,000 warrants annually in the names of the partner authorities and these have been allocated across the 4 companies. The CPU Manager acts as the contract manager for the bailiff contract. Typically

bailiffs/enforcement agents will collect fully on between 25% and 40% of all cases passed for collection across all partners that use the existing framework contract.

6. In April 2014, the TCG was introduced to clarify a number of issues with bailiff collections primarily around the fees that could be charged. Previous legislation had left a number of charges unspecified with the only requirement that they should be 'reasonable'. This led to significant variations in practice nationwide and the TCG aimed to provide consistency and fairness to the process. As bailiff companies collecting road traffic debt basically work on a no-cost basis to the Authority (the debtor pays the fees), many authorities did not have contracts with the bailiff companies and consequently had little control over their practices. This is not the case in Nottinghamshire because the 4 bailiff companies that have worked for the County Council and the partner Authorities did so under a comprehensive contract and specification that ensured their fees and collection procedures were declared and agreed by the Council in advance.
7. The main changes introduced by the TCG apart, from rebranding bailiffs as enforcement agents, was the introduction of a fixed fee structure restricting the charges to the various stages of collection; the initial compliance stage incurs a £75 charge; if an enforcement agent has to attend a property a further £225 can be added and in the event that goods are removed, this has a final charge of £105. The compliance stage consists in detail of the issuing of a Notice of Enforcement to the debtor once they have been traced. Phone calls and emails/texts are also used to encourage the debtor to engage with the enforcement agents as soon as possible to prevent the need for an agent to visit the property and potentially seize goods. All fees are charged to the debtor so there is no direct cost to the local authority. The TCG also introduces an extensive code of conduct and restrictions on times of activity. The latest procurement therefore utilises the new legislation within the specification.
8. The County Council opened a competitive procurement on 19th December 2014 conducted in accordance with the Open (Single Stage) Procedure under County Council Directive 2004/18/EC as implemented by the UK Public Contracts Regulations 2006. The tender return date was 9th February 2015 and 6 tenders were received on this date. An evaluation panel was assembled that comprised three officers from the County Council and one from Derbyshire County Council and was moderated by a senior officer from the County Councils Procurement Team.
9. The TCG Regulations have effectively fixed the fees that enforcement agents can charge so the evaluation was based entirely on the quality of the responses to 21 Method Statement questions each with a separate weighting. Of the 6 tenders received, the highest scoring bids were made by Bristow and Sutor, Equita, Marstons and Rundles. Following the necessary stand-still period, these 4 have all been offered and have accepted the contract with the County Council.
10. Four companies are required to provide adequate coverage to process the number of warrants created across the three Counties (Nottinghamshire, Derbyshire and Lincolnshire). Work will be allocated initially on an equal split but will be amended based on performance against a number of Key Performance Indicators. The framework is also available for the collection of sundry debt by the County Council and all the successful tenderers have committed to doing this for the County Council for no additional cost assuming they will also receive road traffic debts. Sundry debt is that owed to the County Council for miscellaneous items such as unpaid school meals, overpayments to exiting staff and other fees. The

enforcement agents cannot act upon a warrant but follow a different debt collection process with a charge to the County Council normally. The annual amount of sundry debt is approximately £23K in this financial year and consequently the collection rates and fees are not significant sums. As the tenderers have agreed to waive the fees during the next new contract there will be a small saving accrued.

11. The TCG Regulations have introduced a larger initial fee when a warrant is received by the Enforcement agents. In response to this, the CPU has also implemented a number of initiatives designed to reduce the number of cases that are passed to the enforcement agents to collect. It is inevitable that some cases will progress that far but to encourage earlier engagement with the local authority the CPU now sends a letter prior to the legal debt stage inviting recipients to enter into a payment plan to clear the outstanding amount. In addition, NCC will shortly be introducing a text service to further encourage recipients to contact us rather than deal with the enforcement agents. Furthermore, the new specification ensures that the Enforcement agents cannot move the case to the second visit stage until at least 21 days have passed and at least two letters have been sent to the debtor including an immediate offer for repayment over three monthly payments. The legal minimum is 7 days and one letter so this enhanced compliance stage and payment options gives further opportunities for early contact and easier settlement. The enforcement agents will bear the full cost of this as part of the compliance fee.

Other Options Considered

12. There are a small number of people who will refuse to pay a Penalty Charge Notice despite all attempts by the local authority and there is no viable alternative in these circumstances to using a professional enforcement agent service. If debts were not pursued vigorously it is inevitable that the number of non-payers would rise and the whole enforcement service would become economically unviable. It would also be wholly unreasonable to those motorists who do pay their Penalty Charge Notices in a timely manner. The County Council has introduced a number of measures to help those unable to pay the outstanding amount in full and to ensure that debtors engage with us as much as possible. The enforcement agents are bound by new legislation in the fees they charge and how and when they can seek to collect the outstanding debt.

Reason/s for Recommendation/s

13. Members are informed of the award and the new Regulations that apply for debt collection.

Statutory and Policy Implications

14. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

15. As indicated, bailiffs /enforcement agents are required to pursue outstanding debt from the authorities that utilise the CPU. There is no direct cost to the authorities for this service as the collection fees are included within the overall debt. Under the previous contract the bailiffs did charge a fee for collecting Sundry Debt but the new tenders waive this which will realise a small annual saving.

Implications for Service Users

16. The TCG Regulations, the contract details and the measures taken to reduce debt processing will ensure that service users that have not paid Penalty Charge Notices will be given the opportunity to pay the debt in instalments on an agreed payment plan. In addition they will be liaising with enforcement agents working to strict legal and contractual guidelines on how and when they can pursue debt.

RECOMMENDATION

1) That Members note the award of the enforcement agent contract to Bristow & Sutor, Equita, Marstons, and Rundles for the period 2015-2019 under the terms of the UK Public Tenders Regulations 2006.

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Constitutional Comments (AK 11/03/2015)

17. The Highways and Transport Committee has delegated authority within the Constitution to approve the recommendations in the report.

Financial Comments (TMR 16/03/2015)

18. The financial implications are set out in paragraph 15 of the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All