

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

5215

Author:

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Department:

Finance and Resources

Contact:

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Subject:

Extension of Enforcement Agent Contract

Total Value:

Nil (Type: Nil)

Decision Being Taken:

1. To approve the extension of the existing contract (CPU ref: 1886) with Marstons Recovery (Formally Rossendales), Bristow & Sutor and Equita for debt enforcement services of 12 months with effect from 31.03.2024.

2. To delegate authority to the Corporate Director of Finance and Resources to sign and enter a variation of contract with Nottingham City Council and (Marston Recovery, Bristow & Sutor and Equita) as the remaining parties to the contract.

To note exemption from Spend Control Board approval for the proposed contract extension as there is no spend incurred by Nottingham City Council, as the contract extension reflects a concession opportunity to generate/ recover up to £926,074 in statutory enforcement fees recoverable from individual debtors.

**Decision 1. Background:**

In 2019 Nottingham City Council (in partnership with Nottingham Revenues and Benefits (NRB) and Leicestershire County Council) called for competition for Enforcement Agency Services (Ref: CPU 1886) using the Yorkshire Purchasing Organisations Dynamic Purchasing System (Ref: 953). Each Customer (Nottingham City Council in partnership with Nottingham Revenues and Benefits and Leicestershire County Council) established separate Call off Contracts with each winning bidder for the delivery of the Services required. The contracts signed with Marston Recovery, Bristow & Sutor and Equita maximised the collection of debts through the effective use of all available recovery options, reduced the costs of collection and ensured a high-quality Enforcement Agent service to the Council. The initial term of the agreement was for 1 year, but was extended in line with the terms of the contract and was due to expire on the 31st March 2024, coinciding with the expiry of the YPO DPS (ref 953).

However, it should be noted that since the 1st April 2024 all incumbent parties have continued to deliver the service, through their conduct in line with the previous contractual terms, in anticipation of the contract being formerly extended for a further short period, to allow sufficient time for a subsequent re-tender for the services to be completed.

**Decision 2. Background:**

Departments are currently utilising the contracts to support the recovery of council tax, business rates, parking enforcement services and commercial rents, this service is key to recovering unpaid debt for the council. It was therefore necessary to have a continuation in the provision of the services and explore the a further extension of the existing contracts with the current providers.

Although the existing contract that was procured under YPO, Enforcement Agency Services DPS-953 which ended on the 31st March 2024, an extension of an extant call-off contract beyond the end of a framework or DPS is permissible, subject to compliance with procurement rules. If the contracts simply lapsed, then the direct award of new contracts to existing providers (without re-tender), would breach the principles of treating economic operators equally, without disclination and with transparency and proportionality, unless an exemption from the required procurement procedures were obtained.

Other options were considered and rejected and included:

- An SLA agreement with each enforcement agent, but the advice is that due to the 'value of opportunity' to each enforcement agent this route isn't open to us.
- A 'Direct Award' via the Crown Commercial Service isn't possible either through the procurement 'lots' for debt enforcement.

Unfortunately there hasn't been sufficient time to complete a full tender exercise for enforcement agents for the collection of council tax, business rates, parking enforcement and commercial rents. Therefore a 12-month extension to allow for a full procurement exercise to take place is required

**Decision 3. Background:**

The £926,074 is the value of opportunity provided to all three Enforcement agents and is levied against the debtor. The local authority does not incur any cost itself but rather provides an opportunity to suppliers to generate enforcement fees. As such no requirement for SCB approval required as no additional spend is to be incurred.

The extension of the existing contracts with the current providers is allowed under the Public Contract Regulations providing specific grounds set out in regulation 72(1)(b)(i) and (ii) can be satisfied as well any increase in price does not exceed 50% of the value of the original contract term.

**Modification of contracts during their term**

**72.-(1) Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:**

**(b)for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor-**

**(i)cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, [F1and]**

**(ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided that any increase in price does not exceed 50% of the value of the original contract;**

**The conditions (i) and (ii) can be met for technical reasons insomuch that our technology is linked with all suppliers for payment files, debtor placements, debtor returns and the councils core systems are configured with each of the suppliers. The council does not have the capability to replicate what the suppliers provided as a service. In addition, were the suppliers to return each live case back to the council, this would impact the council's debt being recovered for council tax, business rates, parking enforcement and commercial rents, so would be an uneconomical approach.**

**In relation to the costs as mentioned in (ii), there would still remain no cost to the council for extending by 12 months, though for the purposes of valuing the contract the opportunity being provided to the suppliers, is the figure that is considered to be the value of the contract. The extension seeks for a term of 12 months awarding a potential total opportunity for the existing suppliers of £926,074. The original contract had a maximum term of 4 years with an estimated value of £3,7m. Therefore, and extension of 12 months on the same terms would represent an extension of opportunity by 25%.**

**Other Options Considered:** 1. Extending existing contacts - chosen option 2. Direct award to existing panel through YPO or CCS frameworks. 3. Entering into an SLA agreement with each enforcement agent

**Background Papers:**

**Published Works:**

**Affected Wards:** Citywide

**Colleague / Councillor Interests:**

**Consultations:** Those not consulted are not directly affected by the decision.

**Crime and Disorder Implications:** No change to policy or procedures'

**Equality:** EIA not required. Reasons: No change in policy or operating model when recovering local tax / business rate / parking services.

**Decision Type:** Officer

**Executive Decision?** Yes

**£50,000 or more:** Yes

**Scheme of Delegation Reference Number or Other Source of Delegation:** 1

**Subject to Call In:** No

<b>Person Consulted: Phil Wye</b>
<b>Consultation Date: 19/11/2024</b>
<b>Call-in periods do not apply for operational decisions</b>

**Advice Sought:** Legal, Finance, Procurement

**Commissioner Comments:** Not required for operational decisions

**Legal Advice:** See attached legal comments Advice provided by Richard Bines (Solicitor) on 29/05/2024. Advice provided by Richard Bines (Solicitor) on 17/10/2024.  
Advice documents: Legal Comments Update 29.05.2024.docx

**Finance Advice:** This report seeks approval for the extension of the existing contract (CPU ref: 1886) with suppliers of debt enforcement services (Marstons Recovery, Bristow & Sutor and Equita) for 12 months starting from 31.03.2024. The original contract had a maximum term of 4 years with an estimated value of £3.7m. The value of this extension is £0.926m.

NCC places debt with Enforcement agents and they collect on behalf of NCC, the enforcement agent generates their fees by raising and collecting statutory enforcement fees directly from the debtor. Enforcement agents collect unpaid debt at no cost to NCC. In 23-24, they collected circa £5m of debt across council tax, NNDR and Parking/Traffic Services at no cost to NCC. Moreover, NCC does not have the resource, qualified enforcement agents or infrastructure to collect in house.

This contract maximises the amount of debt that can be recovered by the council and will provide a concession opportunity for the suppliers to generate/ recover up to £0.926m in statutory enforcement fees from individual debtors.

NCC should review its bad debt position regularly and provide for bad debts in its accounts. There is no additional financial implication resulting from the approval of the extension.

Alfred Ansong, Strategic Finance Business Partner, 05/06/2024.

Advice provided by Alfred Ansong (Interim Strategic Business Partner) on 11/06/2024.

**Procurement Advice:** The procurement team will support the client to tender for this service to put in place a compliant contract to provide enforcement agents services for departments currently utilising the contract to support the recovery of council tax, business rates, parking enforcement services and commercial rents. Advice provided by Lorraine Hodgson (Procurement Officer) on 02/04/2024.

**Signatures:** Sajeeda Rose (Chief Executive)  
SIGNED and Dated: 19/11/2024