

COMMITTEE: STANDARDS & GENERAL PURPOSES

Date:

Wards: All

Subject: Local Government and Social Ombudsman Report – Enforcement Agents

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Councillor Tobin Byers, Cabinet Member for Finance

Contact officer: David Keppler Head of Revenues and Benefits

Recommendations:

1. Standards & General Purposes Committee to consider the contents of this update report regarding the Enforcement Service following the Local Government and Social Care Ombudsman (LGSCO) decision and report.
 2. Standards & General Purposes Committee to advise if it requires a further update report on the service.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report updates Standards & General Purposes Committee on the Enforcement Service. On 23 July 2020 the committee received a report following the LGSCO report and decision against the council regarding the enforcement service.

2 DETAILS

- 2.1. The initial report to Standards & General Purposes detailed:
 - The background of the service
 - Statistical information on debts collected and cases dealt with
 - Data on complaints
 - The LGSCO complaint and findings against the Council
 - The improvement action plan for the service – This has been updated, see Appendix 1
 - That enforcement work had been suspended due to the first national lockdown
- 2.2. During the lockdown the Enforcement Agents supported the shielding exercise in both Merton and Sutton and also supported foodbanks and voluntary sector in Merton.
- 2.3. Enforcement Agents also helped with the recent surge testing in Pollards Hill.
- 2.4. The administrative team were furloughed between June and October.
- 2.5. The Ministry of Justice enabled enforcement work to re-commence at the end of August 2020.

- 2.6. Plans to re-commence enforcement action in Merton and Sutton commenced in September. These were:
- Re-engagement letters sent to all debtors giving them 30 days-notice that enforcement action could re-commence
 - Risk assessments for the service and all individual staff
 - Training from external provider on re-engagement and safe enforcement action
 - New procedures for safe enforcement activity
 - Purchase of PPE
 - Progression of procurement of new body worn cameras
- 2.7. Enforcement activity recommenced on 6 October 2020 for parking enforcement work only. Enforcement Agents undertake socially distanced recovery action and are not allowed into properties. Removal of vehicles are only allowed in very exceptional circumstances and agreed by the Head of Service.
- 2.8. The Shared Service Board, with officers from Sutton and Merton, has held monthly meetings to monitor progress, agree the roll out of further enforcement work and review the service.
- 2.9. In November 2020 Merton agreed the recommencement of council tax collection, ahead of the pilot virtual court in December.
- 2.10. There have been six stage one complaints since recommencement of enforcement activity. There have been no stage two complaints. All complaints are investigated by the Enforcement Manager and reviewed by the Head of Revenues and Benefits.
- 2.11. The Head of Revenues and Benefits has undertaken a review of the service on behalf of the Shared Service Board. This identified a current reduction in workload due to the impact of the pandemic and also anticipates a continued reduction of workload for at least the next year.
- 2.12. In this financial year, Merton has so far only held one Liability Order Hearing at the Magistrates Court and Sutton have not had any. Before a council tax debt is passed to the enforcement team a liability order has to be obtained. This has impacted on the volume of work passed to the enforcement service.
- 2.13. The Court Service are currently not agreeing to the scheduling of future court hearings. Normally both Councils have a hearing every month.
- 2.14. The Council is unlikely to progress very many business rates debts to the Magistrates Court although at present the Court Service will not entertain Liability Order Hearings for business rates debts.
- 2.15. There was a 12% reduction in PCN's issued in Merton between July and October 2020 compared to the previous year and lockdowns further impact on the number issued.
- 2.16. It is estimated that there will be a 25% reduction in workload for a least one year and possibly longer.

- 2.17. The Shared Service Board has completed a consultation exercise on a restructure proposal to reduce the staffing levels and it is estimated this will be completed in April 2021. This will hopefully ensure that the in-house service is sustainable for the future.
- 2.18. The Shared Service Board will continue to monitor the service and will agree when the full range of enforcement activity can be re-commenced.

3 ALTERNATIVE OPTIONS

- 3.1. As previously reported an option would be to stop providing an in-house enforcement service and to use external contractors for all debts. The formal contract with LB Sutton for the shared service would need to be terminated and TUPE would apply if external contractors were procured. There is likely to be redundancy costs for staff not transferred if alternative employment was not found.
- 3.2. Using an external contractor is likely to attract costs, in cases where an Enforcement company has undertaken work and the council decides that they do not want enforcement action progressed it will be charged for fees already incurred. We also found that external contractors would often collect the fees and then pass the case back with the debt outstanding. (This was part of the reason the in-house service was introduced)

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. LB Sutton have previously been consulted with regarding the LGSCO complaint and report.
- 4.2. Sutton have two representatives on the Shared Service Board so are included in all decisions affecting the service. Although both Merton and Sutton will decide independently on the work they want undertaken or not.

5 TIMETABLE

- 5.1. None for the purpose of this report.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. As previously reported, the in-house Enforcement service collects a large amount of unpaid debt for both Merton and Sutton council. Collectively in the last full four financial years (2016/17 to 2019/20) over £18.4 million in debt has been collected.
- 6.2. The restructure of the service will see a reduction from 19 staff down to 13. This will help to reduce the direct and indirect costs of the service (salaries, van rental, IT licences etc).

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Enforcement Agents are legislated by the Taking Control of Goods Act 2013.
- 7.2. Debtors have recourse to decisions made by Enforcement Agents through the courts.
- 7.3. Enforcement Agents are issued their certificate every two years by a Judge in the County Court.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. Whilst the council has to undertake all reasonable steps to collect unpaid debt owed it has to ensure that it is done in a fair and transparent manner and that all staff collecting debts are aware of the impact of debt on vulnerable clients.
- 8.2. The Taking Control of Goods Act details how Enforcement Agents should deal with vulnerable clients. All Enforcement Agents have received training on dealing with vulnerable clients and have all attended Dementia Awareness training.
- 8.3. In the current climate Enforcement Agents and office staff are encouraged to offer longer term payment arrangements to debtors.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purpose of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. Undertaking enforcement work can be challenging and at times the Enforcement Agents can face aggression and possible violence against them. In the past our Enforcement Agents have been assaulted and Police have been called to attend incidents.
- 10.2. All Enforcement Agents should wear Body Worn Camera's and Stab vests which have been supplied. The recent change of policy regarding Body Worn Camera's should now see the Enforcement Agents recording all visits and engagements with debtors. The procurement of new cameras has been completed and all Enforcement Agents now have the new cameras.
- 10.3. All Enforcement Agents carry an Ipad with case details, there is a Panic button on the system which if triggered sends text messages to office staff. All Enforcement Agents use council supplied vans which have GPS tracking, this enables the office staff to identify if an Enforcement Agent has not moved position for a given period of time which would result in a phone call to the Enforcement Agent to ensure everything is alright.
- 10.4. The van tracking enables the office staff to contact Enforcement Agents in close proximity to any potential incident so that support can be requested.

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

- 11.1. Appendix 1 – Updated Improvement Action Plan

12 BACKGROUND PAPERS

- Appendix 1 – Report to Standards and General Purposes Committee on 23 July 2020.
- 12.1.