

# Policy and Resources Committee

30 October 2017

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

## Debt Recovery Service

<b>Final Decision-Maker</b>	Policy and Resources Committee
<b>Lead Head of Service</b>	Stephen McGinnes, Mid Kent Services Director
<b>Lead Officer and Report Author</b>	Sheila Coburn, Interim Head of Revenues and Benefits
<b>Classification</b>	Public
<b>Wards affected</b>	All

### This report makes the following recommendations to this Committee:

1. That the progress that has been made in the implementation and delivery of the Debt Recovery Service is noted.
2. Delegated authority is given to the Mid Kent Services Director to negotiate and enter into such agreements as are necessary to expand the Debt Recovery Service in order to provide services for other Councils.

### This report relates to the following corporate priorities:

The debt recovery service aims to maximise the income available to the Council through the effective collection of unpaid Council Tax, Business Rates and parking fines.

In doing so the service supports the Mid Kent Services partners to achieve their objectives; for Maidstone Borough Council this means supporting the council to progress its corporate priorities.

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

### Timetable

<b>Meeting</b>	<b>Date</b>
Committee (Policy and Resources)	30 <sup>th</sup> October 2017

# Debt Recovery Service

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Following the successful implementation and operation of a shared debt recovery service with Swale BC and Tunbridge Wells BC, opportunities are being explored to expand the service to deliver on behalf of other local authorities.
- 1.2 In order to facilitate that expansion delegation is sought to enable the Mid Kent Services Director to negotiate and enter into such agreements as are necessary for the Debt Recovery Service to provide services for other Councils.
- 1.3 The opportunity to expand the service has been considered and is supported by the Mid Kent Services Board. The opportunity is consistent with the strategic priorities of the partnership to expand income opportunities and cross-organisational working.
- 1.4 Maidstone BC is the host and employing authority for the service. As such any future agreements to expand the service will be entered into by Maidstone BC on behalf of the partnership, with a supporting collaboration agreement between MKS Partners ensuring that risks and benefits are shared.

## 2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone, Swale and Tunbridge Wells BCs have used external enforcement agents to assist in the recovery of unpaid Council Tax, Business Rates and parking fines for a number of years, issuing between them over 13,500 warrants for collection each year.
- 2.2 In undertaking the service the enforcement agent is entitled to apply a charge (amount set by statute) which is recovered from the debtor along with the amount owed to the councils. There has historically been no cost or benefit to the council beyond recovery of the debt passed to the enforcement agent for collection.
- 2.3 Following amendment to the enforcement legislation and fee structure from April 2014, the potential for service improvement and income generation through enforcement fees prompted local authorities to review delivery arrangements, with Maidstone, Swale and Tunbridge Wells BCs agreeing to create a shared in house debt recovery service in December 2015.
- 2.4 The business case for creating the shared service set the following objectives.

### Short Term (Year 1)

- Establish the shared service.
- Enforce 50% of warrants currently passed to external bailiffs

- Match the collection rate achieved by external bailiffs
- Achieve an operating surplus of £174,000

The shared service went live in June 2016 as scheduled and on budget. A phased approach was adopted with staffing and workload increased as confidence in the service grew. By March 2017 the service was fully staffed (7 full time members of staff) and enforcing 95% of warrants. Those warrants not enforced are predominantly out of area and therefore better served by an external provider with a national reach.

During the period June 2016 to March 2017 the service collected £1.2 million in unpaid Council Tax, Business Rates and parking fines. The cost of the service was met in full through the statutory enforcement fees and delivered an operating surplus of £172,000. The service set up costs (£89,000) and operating surpluses are shared equally between the partner authorities.

#### Medium Term (Year 2 – 5)

- Successfully enforce 75% of total warrants previously passed to external bailiffs
- Match the collection rate achieved by external bailiffs
- Achieve an operating surplus of £315,000 per year.
- Conduct analysis of the costs, benefits and risks of bidding for clients other than Maidstone, Swale and Tunbridge Wells Councils.

Whilst only part way through the second year of operation the service has demonstrated its ability to maintain performance and enforce 95% of warrants for the partner authorities, with income projections matching the £315,000 operating surplus target.

The service has been in discussion with Gravesham BC which agreed to undertake a 6 month trial of the service for the enforcement of Council Tax, Business Rates and parking debt for Gravesham BC. The agreement is based on a profit share arrangement whereby the founding partners (Maidstone, Swale and Tunbridge Wells) would share the operating surplus with Gravesham in order to provide mutual benefit.

With the service demonstrating a scalable model that can generate an income for the MKS councils through the delivery of enforcement services to other local authorities, delegation is sought to enable the Mid Kent Services Director to negotiate and enter into such arrangements with other local authorities.

### **3. AVAILABLE OPTIONS**

- 3.1 Do Nothing – the service has met its short term objectives providing the partner authorities with an effective service for the collection of unpaid Council Tax and Business Rates, whilst delivering an operating surplus.
- 3.2 The service can continue in its current form and deliver a comparable operating surplus in future years. There would be no increase in the operating surplus generated due to the team already enforcing the majority of warrants (95%) generated by the partner authorities.

- 3.3 Service Expansion – the service infrastructure that the partner authorities have put in place (e.g. case management system, payment systems, website, policies and procedures) enables the service to adjust the scale of the operation to take on work and provide services on behalf of other councils.
- 3.4 With the change in enforcement legislation and drive towards commercialisation many authorities are reviewing their debt enforcement arrangements and considering the merits of creating an in house enforcement team.
- 3.5 The Mid Kent Enforcement Service represents a viable alternative for those authorities, providing an opportunity to share the investment, skills and experience that have been developed in exchange for a share of any operating surplus generated. The service has modelled such an arrangement and is currently working with Gravesham BC which has agreed to undertake a 6 month trial of the service.
- 3.6 It is intended that any expansion will be phased to allow for incremental growth and initially focus in Kent and Medway, given the operational benefits of focusing staff within a geographical area.
- 3.7 To mitigate the risk a business case will be produced and considered by the MKS Shared Service Board (S151 Officer from Maidstone, Swale and Tunbridge Wells) with oversight from the MKS Executive Board (CEO from Maidstone, Swale and Tunbridge Wells) before entering into any agreement.
- 3.8 The ongoing performance of the service will be monitored through the above arrangements and reported to the MKS Board (Leader from Maidstone, Swale and Tunbridge Wells) at least biannually as part of the wider governance arrangement for shared services.
- 3.9 The existing MKS Debt Recovery Service collaboration agreement provides that the service, including all investment, benefits and risks will be shared equally by the MKS partners (Maidstone, Swale and Tunbridge Wells).
- 3.10 The primary risks associated with the service expansion are:-

Legal challenge – That a legal challenge is brought against the council or a partner authority by a private sector provider on the basis that the arrangement fails to meet procurement legislation. To mitigate the risk legal advice has been sought throughout the process with formal agreements to be put in place before starting any activity.

Partner leaves – That staffing for the service is increased to meet an increased workload and a partner authority then withdraws from the service. To mitigate the risk an agreement will be put in place to formalise the commitment, set out a minimum notice period and provision for the transfer of staff before starting any activity.

Staffing – Success of the service is dependent on attracting and retaining suitably qualified and skilled staff. The service has a good track record in

being able to attract staff and believes its offer represents a good employment package. As the service develops resilience within the service will grow and investment will be made in employing and training new staff to become qualified enforcement officers.

- 3.11 Enforcement of other debt types – The business case for the current service is centred on meeting the existing internal market that the partner authorities have for enforcement of council tax, business rates and parking debt. It is possible to predict the cost of the service and income to be achieved due to the statutory nature of the process and fees that are applied. Whilst there may be an equivalent business case for the collection of other debt types such a change would require a separate business case rather than being considered as an expansion of the current service.

#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Service Expansion – the council has demonstrated its ability to provide an effective enforcement service to both maximise debt collection and deliver an operating surplus.
- 4.2 There is an active market for such services and the council has scope within its current operation to expand to support that market and increase the operating surplus available to the council.

#### **5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 5.1 Subject to the appropriate delegation, the service will engage with other Kent LA's to outline the service offering and progress opportunities to collaborate.

#### **6. CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	The debt recovery service aims to maximise the income available to the council to progress corporate prioritise.	Stephen McGinnes, Mid Kent Services Director
<b>Risk Management</b>	The service has recruited a team of skilled and experienced staff to reduce the failure and will continue to adopt a phased approach to its development.	Stephen McGinnes, Mid Kent Services Director
<b>Financial</b>	The service delivered an operating surplus of £172,000	[Section 151 Officer &

	during 2016/17. By delivering operating surpluses, the service helps to contribute to the Council's corporate overheads and fixed costs at a time when service reductions are being made in other areas.	Finance Team]
<b>Staffing</b>	The number of FTE employed within the service will increase to reflect any additional partners with the cost met through increased fee income.	Stephen McGinnes, Mid Kent Services Director
<b>Legal</b>	<p>The Tribunals, Courts and Enforcement Act 2007; and The Taking Control of Goods Regulations, provide the legal basis for the council to take enforcement action and recover the associated fee.</p> <p>The powers to charge for the provision of services, subject to certain limitations and restrictions is set out in s.3 Localism Act 2011. [S.93 LGA 2003 also provides a power to charge for the provision of discretionary services.]</p> <p>S.1 Local Authorities (Goods and Services) Act 1970 gives local authorities powers to enter into agreements with each other to provide goods and technical services on a commercial basis.</p> <p>The agreement between the MK Enforcement Service and other local authorities shall be drafted in liaison with MKLS.</p>	Team Leader (Contracts and Commissioning)
<b>Equality Impact Needs Assessment</b>	The proposed decision is not expected to have any adverse impact on those households with protected characteristics. Enforcement legislation	Stephen McGinnes, Mid Kent Services Director

	provides statutory protection for vulnerable residents. All staff within the service have been trained on identifying and supporting vulnerable households.	
<b>Environmental/Sustainable Development</b>	No impact.	Stephen McGinnes, Mid Kent Services Director
<b>Community Safety</b>	No impact.	Stephen McGinnes, Mid Kent Services Director
<b>Human Rights Act</b>	No impact.	Stephen McGinnes, Mid Kent Services Director
<b>Procurement</b>	The council has a panel of external enforcement agents that it calls upon to action out of area and returned warrants.	Stephen McGinnes, Mid Kent Services Director
<b>Asset Management</b>	No impact.	Stephen McGinnes, Mid Kent Services Director

## **7. REPORT APPENDICES**

None

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## **8. BACKGROUND PAPERS**

None