



ENVIRONMENT, CLIMATE EMERGENCY AND TRANSPORT COMMITTEE

Monday, 19 June 2023

REPORT TITLE:	PARKING ENFORCEMENT CONTRACT RENEWAL OPTIONS
REPORT OF:	DIRECTOR OF NEIGHBOURHOOD SERVICES

REPORT SUMMARY

The Council has a legal duty to maintain the safe flow of traffic on its network under the Traffic Management Act 2004. Part of this duty is to deliver a Parking Service which includes the enforcement of on and off-street parking restrictions, the initial processing of penalty charge notices up to and including Notice to Owner stage and the issuing of resident, country park and staff parking permits and parking dispensations. The service also provides emergency cover for the school crossing patrol service. The incumbent contractor is NSL Limited, Registration No. 06033060. The Council have worked with NSL for almost 20 years.

The purpose of this report is to seek approval for a 5-year extension to the Council's current parking enforcement contract with NSL Limited.

One of the key themes in the Wirral Plan 2021-2026 is to provide safe and pleasant communities. By making the borough's roads safer for cyclists, pedestrians and other road users, an effective parking enforcement regime will contribute to the key priorities set out within the current Wirral plan.

This matter affects all wards within the borough.

This matter is a Key Decision.

RECOMMENDATIONS

The Environment, Climate Emergency and Transport Committee is recommended to approve the extension of the current contract for parking enforcement services with NSL Limited, Registration No. 06033060 for a further period of 5 years.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATIONS

- 1.1 Extending the current contract provides a commercial rationale in the current macro economic climate, with increasing rates of inflation, allowing more time for the economy to recover and stabilise following macro economic factors such as recovery from the Covid pandemic, global economic pressures and cost of living impacts. It also provides an opportunity for the Council's parking strategy to be implemented and any future parking policies and initiatives for all modes to be determined. Following on from this, officers will be well positioned to fully explore and consider alternative delivery models.
- 1.2 Performance levels throughout the current contract have been consistently high with most performance indicators regularly achieved (see appendix 2). In addition, NSL has been a valuable external partner supporting events such as The Open Golf in 2006, 2014 and 2023. NSL have established excellent working relationships with the Community Patrol Officers and other partners, including Merseyside Police. NSL have supported road safety initiatives, school crossing patrols and the Council's school streets projects.
- 1.3 The current service provider, NSL has presented a contract extension proposal that includes for operational financial savings, added value, a focus on climate emergency response by replacing their fleet with electric /hybrid vehicles and continuing to deliver social value benefits for the borough. The savings proposal strengthens the council's financial position by significant cost avoidance and social value benefits as it seeks to manage service operating costs in support of the Medium Term Financial Plan. The extended contract will also provide opportunities to introduce additional enforcement activities beyond the scope of parking. Officers' recommendation to extend the current contract has been brought following consultation with Legal and Procurement services colleagues.
- 1.4 Extending the current contract avoids additional procurement costs as detailed in the report.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 To do nothing is not an option as the current contract will expire on 30 September 2023 and the Council has a legal duty to maintain the safe flow of traffic on its network under the Traffic Management Act 2004. Five options in total were considered which are set out in detail in Appendix 1 of this report and are as follows:
- Option 1 - Cease contract, re-tender;
 - Option 2 - Extend contract by 5-years as permitted in the original contract;
 - Option 3 - Extend for a period less than 5-years;
 - Option 4 - Cease contract and undertake the service "in house";

- Option 5 - Cease contract and bring part of the service “in house”.

2.2 Option 2 – Extend the contract by a further 5-years is the recommended option.

3.0 BACKGROUND INFORMATION

3.1 In November 2003, the responsibility for enforcing on-street parking restrictions transferred from Merseyside Police to Wirral Borough Council. Civil Parking Enforcement is undertaken in accordance with Part 6 of the Traffic Management Act 2004.

3.2 Part 6 of the Traffic Management Act 2004 provides for a single framework in England for the civil enforcement of parking, bus lanes and some moving traffic offences. The aim of Civil Parking Enforcement is to provide for a reasonable, transparent, and proportionate system of parking enforcement that is applied consistently across the country. The objective is to increase public confidence by providing a system that can be seen to be balanced and fair to the motorists whilst satisfying the Council’s transport and parking duties and its policy aspirations.

3.3 The delivery of the parking enforcement service contributes towards the delivery of many of the broader aims and themes comprised within the Wirral Traffic Network Plan, Wirral Council Plan and Climate Change Strategy including; having a safe highway network through reducing dangerous and inconsiderate parking, reducing Wirral’s carbon footprint by assisting in maintaining a free flow of traffic and reducing congestion, improving the quality of life of residents by reducing non-residential parking within residential areas, and ensuring compliance with on and off street parking controls to generate a turnover of parking space necessary for a prosperous local economy. Other benefits include maintaining access to facilities for persons with disabilities for example by ensuring that only valid blue badge holders park in designated spaces, ensuring that dropped crossing points are not obstructed and reducing the inconvenience and dangers posed by inconsiderate footway parking and parking across residential driveways.

3.4 Since November 2003 the parking enforcement service has been provided by NSL Limited which won the initial contract and have gone on to win a further 2 consecutive contracts through a competitive tendering process. Since 2018 NSL has also provided back office notice processing and management of resident parking permit functions.

4.0 FINANCIAL IMPLICATIONS

4.1 The current cost of the parking enforcement contract is £750,000 per year. At current levels, future contract costs would be approximately £931,000 per annum due to inflationary impacts on cost bases such as accommodation, vehicles, IT equipment and staffing.

4.2 The proposal for the 5-year extension is to reduce expenditure on the contract in years 1 and 2 by setting a maximum budget of £700,000 per financial year. The impact on services provided by this approach will be a small net reduction in number of enforcement officers deployed on a daily basis, but with more focused deployment. Areas of the borough with higher compliance levels may see less

enforcement patrols as a result. The supplier will address staffing levels in line with the requirements of the contract, which in turn will require less equipment to be provided thus making the cost reduction deliverable.

- 4.3 The incumbent supplier, NSL, propose that an Indexation Mechanism be agreed with the council and is applied to the fixed costs and deployed hours charge and this is to be submitted by NSL for agreement by the Council by the end of November each year to be applicable from the following April. The format of the indexation application and supporting information is to be agreed at the start of the contract extension period. Any variation request to the agreed format will be required to be formally applied for in advance for the Council to confirm agreement. Indexation is to be based on the annual change in specific elements of contractor's costs listed below: Direct Staffing Costs – Indexation based on the Real Living Wage increase for each eligible staff member. The contractor will be required to provide full supporting financial costing per level showing staff eligibility information such as age/hours worked per week or month etc. Other costs – Indexed in accordance with the percentage change in CPI in the 12 months ending on 31st March, to be applicable to monthly invoices from the following October. For any avoidance of doubt, if the net change indices are positive then the monthly deployed hours charge shall increase and if the net change in the indices is negative then the charge shall decrease.
- 4.4 Contract costs will be met from existing parking services revenue budgets.

5.0 LEGAL IMPLICATIONS

- 5.1 The Secretary of State for Transport, Local Government and the Regions, in exercise of powers conferred by Schedule 3 to the Road Traffic Act 1991 - RTA 1991, gave the Council powers of decriminalised parking enforcement through the Road Traffic - Permitted Parking Area and Special Parking Area - Metropolitan Borough of Wirral - Order 2003. Parking enforcement and associated functions are carried out by enforcement authorities under the Traffic Management Act 2004 and the Road Traffic Regulation Act 1984 – RTRA.
- 5.2 The Council has powers under sections 32 and 35 of RTRA to charge parking fees.
- 5.3 Section 46 of the RTRA makes provision for charges for the use of designated parking places on streets.
- 5.4 Section 45 of the RTRA makes provision for the designation of paying parking places on highways. Section 45(2)(b) of the RTRA states that the authority may issue permits for the use of designated parking places and that the authority "(b) ...may make such charge in connection with the issue or use of the permit, of such amount and payable in such manner, as the authority by whom the designation order was made may by order prescribe."
- 5.5 Section 122 of the RTRA imposes a general duty on local authorities exercising functions under the RTRA 1984 to "secure the expeditious, convenient and safe movement of vehicular and other traffic, including pedestrians and the provision of suitable and adequate parking on and off the highway...".

5.6 Section 55 RTRA sets out financial provisions relating to designation orders. In essence it states that there should be a ring fenced account in respect of income and expenditure in respect of parking places and that if at the end of the financial year any surplus can be applied for the following purposes:

(a) the making good to the general fund ... of any amount charged to that fund under subsection (2) above in the 4 years immediately preceding the financial year in question;

(b) meeting all or any part of the cost of the provision and maintenance by the local authority of off street parking accommodation, whether in the open or under cover;

(c) the making to other local authorities, or to other persons of contributions towards the cost of the provision and maintenance by them, in the area of the local authority or elsewhere, of off-street parking accommodation, whether in the open or under cover

(d) if it appears to the local authority that the provision in their area of further off-street parking accommodation is unnecessary or undesirable, the following purposes–

(i) meeting costs incurred, whether by the local authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services,

(ii) the purposes of a highway or road improvement project in the local authority's area,

(iii) ...this only applies to a London authority,

(iv) the purposes of environmental improvement in the local authority's area,

(v) in the case of such local authorities as may be prescribed, any other purposes for which the authority may lawfully incur expenditure;

5.7 The Council is therefore required to publish its parking accounts indicating how any surplus is re-invested. Officers will develop a simplified presentation format for this when future charging policy is set.

5.8 Case law has clarified that the purpose of civil parking enforcement is not to raise revenue and the Council would be acting outside of its legal powers if it sought to use civil parking enforcement as a vehicle to raise income. The purpose of penalty charges is to dissuade motorists from breaking parking restrictions, the objective of civil parking enforcement should be for 100% compliance, with no penalty charges.

5.9 The Council is enabled, by section 111 of the Local Government Act 1972, to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council, therefore, has a general power to enter into contracts for the discharge of any of its functions; including the proposed contract set out in this report.

5.10 Legal Services have advised that the Council can exercise its right to extend the current parking enforcement contract with NSL Limited for a further 5 years by giving 3 months' notice before it would otherwise expire on 30 September 2023.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 Existing staff resources in the Neighbourhood Services directorate will be utilised in the implementation of the contract extension as part of their normal duties. There are no additional resource implications.

7.0 RELEVANT RISKS

- 7.1 There is a risk to business continuity for failure to extend. This could leave the Council without a contractor to undertake parking enforcement which in turn could lead to uncontrolled parking on the highway, congestion and road safety implications plus a failure to achieve the 2023/24 budgets for chargeable car parking and Penalty Charge Notice, PCN income.
- 7.2 Advice from Procurement service colleagues supports a 5-year extension. The benefits of a 5-year extension are detailed in Appendix 1 option 2 of this report. Ongoing contract management arrangements - service levels and key performance indicators, will continue to be used to mitigate any disruption/poor service during the lifetime of the contract.
- 7.3 Should a contract extension not be approved, officers will be required to prepare for a contract retender exercise, requiring a high level of officers' engagement across multiple council departments. Ending the contract on 30 September 2023 would impact on parking service officers' ability to deliver on multiple council savings initiatives and projects scheduled over the next few years, following the approval of a parking strategy and future parking policies and interventions for all modes of transport.
- 7.4 Following the Covid pandemic and Brexit there are increasing risks in the economy such as rising material costs, energy costs, labour costs and shortages, inflationary pressures and market risks associated with demand and supply lines. The above factors are considered likely to impact on those local authorities undertaking procurement exercises in respect of significantly higher than expected target cost submissions.
- 7.5 There is a risk that a long term contract extension could lead to poor value for money, however, analysis of the contract let in October 2018 and discussions with the contractor mean the Council is confident that it does represent value for money. Information from other local authorities in the region, see appendix 1, also supports this. When considering the current financial environment and uncertainty over the short to medium term it is considered prudent to delay the re-tendering process, in order to reduce the risk of higher than expected contract costs impacting on the Council's budgets.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The Committee Chair and Spokespersons were consulted on the available options for the enforcement of parking. Ongoing engagement will be carried out with the Blue Badge issuing Department and WIRED - Wirral Information Resource for Equality and Diversity, to ensure there are no implications as a result of parking enforcement and any future policy changes.
- 8.2 Parking service managers from the Liverpool City Region and other parking managers in the North West region, have been consulted on their parking enforcement arrangements, details are included within Appendix 1, Table 1 of this report. This network is proving helpful to share best practice across the service

understanding market changes and seeking opportunities to collaborate where possible.

- 8.3 The option for shared services with other neighbouring authorities including Cheshire West and Chester Council has been discussed however at present there is no appetite for this option. Positive dialogue will continue with Cheshire West and Chester council and if appropriate this will form part of a review in 2026.
- 8.4 The incumbent contractor NSL Limited have indicated that they would be willing to continue supplying the parking enforcement services for a further 5 years from October 2023 should a contract extension be granted.

9.0 EQUALITY IMPLICATIONS

- 9.1 The Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 An Equality Impact Assessment – EIA, has been compiled. A copy can be found at: - <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The link between poor air quality, the climate emergency and emissions from vehicles is widely accepted. An effective car parking enforcement regime encouraging modal shift away from the private motor car towards cleaner, more sustainable modes of transport will have a positive environmental and climate change impact.
- 10.2 Effective parking enforcement may help promote more active travel and less use of the private car so will help provide equality of accessibility for local residents and businesses, help reduce local congestion and improve safety for vulnerable roads users as well as health and air quality. A fit for purpose car parking enforcement service will positively support the Council's Environment and Climate Emergency Declaration and Active Travel agenda.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 Through any future procurement exercises associated with the necessary parking enforcement activity or related parking matters, the council will seek to maximise social value activity in local communities wherever possible.
- 11.2 Effective parking enforcement will have a positive impact on supporting active travel and encouraging modal shift away from the private motor car. Evidence suggests that making changes that are good for walking and cycling are also good for local businesses and that local people who walk and cycle spend more in local shops than those who drive as they visit more often and cumulatively spend more.

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APPENDICES

Appendix 1 – Parking Enforcement Contract Options
Appendix 2 – NSL KPI summary

BACKGROUND PAPERS

The Local Government Act 1972,
The Road Traffic Act 1991, RTA
The Road Traffic Regulation Act 1984, RTRA
Part 6 of the Traffic Management Act 2004, TMA

TERMS OF REFERENCE

This report is being considered by the Environment, Climate Emergency and Transport Committee in accordance with Section d of its Terms of Reference, in relation to parking, including on and off-street parking and civil parking enforcement;

SUBJECT HISTORY (last 3 years)

Council Meeting	Date