

# Birmingham City Council

## Report to Cabinet

26<sup>th</sup> July 2022



**Subject:** Contract Extension - Civil Parking Enforcement Services (P129)

**Report of:** Rob James, Strategic Director of City Operations

**Relevant Cabinet Member:** Councillor Liz Clements – Transport  
Councillor Yvonne Mosquito – Finance and Resources

**Relevant O & S Chair(s):** Councillor Chaman Lal, Chair of Sustainability and Transport Overview and Scrutiny Committee  
Councillor Akhlaq Ahmed, Chair of Resources Overview and Scrutiny Committee

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 008616/2021		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Exempt Appendix 2: Item 3 Information relating to the financial or business affairs of any particular person (including the council)		

## 1 Executive Summary

- 1.1 To seek approval to further extend the current contract with NSL Services Ltd for Civil Parking Enforcement Services (including Vehicle Removals) and for Traffic Regulation Order (TRO) Support for the period 1<sup>st</sup> February 2023 to 31<sup>st</sup> January 2024 as an amendment to contract within the scope of regulation 72 of the Public Contracts Regulations 2015.
- 1.2 To seek approval to delegate the approval of the tender strategy & subsequent contract award for the replacement contract to Cabinet Member for Finance and Resource and Transport.
- 1.3 The Government has committed to make the moving traffic enforcement powers under Part 6 of the Traffic Management Act 2004 available to local authorities outside London. The regulations giving effect to these powers were laid in Parliament earlier this year. Whilst awaiting Parliamentary approval, Local authorities currently undertaking civil enforcement of parking, have been permitted to apply in advance of the regulations coming into force to adopt moving traffic enforcement powers. This would be once they have completed public consultations and all other necessary preparations, which includes review of signage and to digitise all Traffic Regulation Orders.
- 1.4 If the Council wishes to adopt these moving traffic enforcement powers, the proposed extension will provide more time to undertake the preparatory work which will give a fuller understanding of the scope of these additional enforcement powers to be included in the requirements of the new contract.
- 1.5 Also, sufficient time needs to be allowed to complete the re-commissioning process, which would include the work to review and update the service specification. Re-commissioning activity for a service of this size and nature typically takes between 14-18 months as illustrated in the indicative timetable below.

Preparatory Work for Tender	Jul 2022-Jan 2023
Delegated/Chief Officers Approval (Strategy)	Feb-2023
OJEU Notice Issued	March-2023
Tender Response Period	April-May-2023
Evaluation Period	Jun- July -2023
Delegated/Chief Officers Approval (Award)	Sept-23
Contract(s) Award	Oct-23
Mobilisation Period (3 months)	Nov-23 to Jan-24
Contract(s) Start	1 <sup>st</sup> February 2024

## 2 Recommendations

That Cabinet;

- 2.1 Approves the further extension of the current contract with NSL Services Ltd for Civil Parking Enforcement Services (including Vehicle Removals) and for Traffic Regulation Order (TRO) Support for the period 1<sup>st</sup> February 2023 to 31<sup>st</sup> January 2024. The estimated annual value is £3m and will be funded as part of the costs of enforcement from income generated from enforcement activities.

- 2.2 Delegates approval of both the procurement strategy & subsequent contract award for the replacement contract to Cabinet Members for Finance and Resource and for Transport.
- 2.3 Notes the risks and mitigations set out in Exempt Appendix 2.
- 2.4 Authorises the Interim City Solicitor (or their delegate) to execute and complete all necessary legal documents to give effect to the above recommendations.

### **3 Background**

- 3.1 The Council successfully applied for a designation order and adopted the powers contained within the Road Traffic Act 1991; superseded by the Traffic Management Act 2004 (Part 6) to undertake civil parking enforcement, and a vehicle removals operation in Birmingham, with effect from September 2001. Therefore, the Council has a statutory obligation to enforce the parking restrictions in Birmingham. The contract for provision of these services is with NSL Services Ltd which is due to expire on 31st January 2023.
- 3.2 The contract award for the provision of Civil Parking Enforcement Services (including vehicle removals and Traffic Regulation Order support) by NSL Services Ltd was approved by Cabinet on 8<sup>th</sup> December 2014. The contract set out an initial term of five years to 31<sup>st</sup> January 2020 with the option to extend for a further two years. The Acting Strategic Director, Inclusive Growth approved the option to extend for the period to 31<sup>st</sup> January 2022 by delegated approval on 27<sup>th</sup> November 2019.
- 3.3 The contract was extended for a further period of 12 months to 31<sup>st</sup> January 2023 by Cabinet on the 20<sup>th</sup> April 2021 as an amendment to contract within the scope of regulation 72 of the Public Contracts Regulations 2015. The reasons for extension was due to the impact of Covid-19 and the uncertainty regarding the future, together with the need to remain in a strong position to maintain contract stability to deliver the enforcement requirements associated with the Commonwealth Games Summer 2022.
- 3.4 Since the award of this contract, NSL Services Ltd has provided a good service in accordance with contractual requirements. Based on this position it is recommended that the contract is further extended.
- 3.5 It is anticipated that the re-commissioning strategy for replacement service delivery will be presented via the delegations proposed above in February/March of 2023.

### **4 Options Considered and Recommended Proposal**

- 4.1 Re-tender for a 1-year contract – this option was considered and discounted because suppliers are unlikely to take on a contract of this size for a 1 year term. The time and cost to both parties of mobilisation are significant. Suppliers are unlikely to want to invest in this for a 1-year return. The first 6-9 months of a contract of this size is typically non-profit making for the successful provider.
- 4.2 If the contract is not extended, there is insufficient time to adopt the new moving traffic enforcement powers once they have completed public consultations and all other necessary preparations, which includes review of signage and to digitise all Traffic Regulation Orders and to complete the procurement activity for a new tender.

- 4.3 If the contract is extended, it will allow the continued ability to deliver enforcement services whilst work takes place to prepare for a new tender strategy. This is the recommended option.

## **5 Consultation**

- 5.1 Discussions have been held with NSL Services Ltd regarding the potential contract extension.
- 5.2 The Assistant Director, City Operations has been consulted and is in agreement with the contents of the report and officers from City Finance, Corporate Procurement and Legal Services have been involved with the preparation of this report.

## **6 Risk Management**

- 6.1 The risks associated with this contract extension are set out within the Exempt Appendix 2.

## **7 Compliance Issues:**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

7.1.1 This contract will support the following objectives of the Council:

**Birmingham is an entrepreneurial city to learn, work and invest in.**

**Priority 4:- We will develop our transport infrastructure, keep the city moving through walking, cycling and improved public transport.**

- the provision of a high-quality parking enforcement service contributes towards achieving the strategic outcomes of improved traffic management and more reliable public transport.
- the parking enforcement operation assists with improving traffic flow and reliability of journey times by tackling and deterring illegal parking, improving the image of local neighbourhoods.
- By helping to ensure that the road network is kept clear of obstructions to the free flow of vehicle traffic, the parking enforcement and vehicle removal operation both contribute towards tackling the causes of traffic congestion and reducing delays to public transport.

**Birmingham is a great city to live in.**

**Priority 4:- We will improve the environment and tackle air pollution.**

- by deterring illegal parking, the parking enforcement service helps to reduce traffic pollution caused by congestion.

**Priority 5:- We will work with partners to ensure everyone feels safe in their daily lives.**

- the activities of the parking enforcement service provide a visible uniformed presence and help to make the streets safer for pedestrians by tackling illegal obstructive parking and enforcing against illegal parking around schools.
- the parking enforcement service will respond to instances of illegal parking identified by local residents.

#### 7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR)

NSL Services Ltd has signed up to and has adopted the principles of the Birmingham Business Charter for Social Responsibility. Delivery of their Charter action plan will continue during this extension term.

## 7.2 Legal Implications

- 7.2.1 The authority for the Council to undertake Civil Parking Enforcement is provided in the Statutory Instrument No. 2883 entitled the Road Traffic (Permitted Parking Area and Special Parking Area) (City of Birmingham) Order 2001 made under the provisions for the Road Traffic Act 1991; superseded by Part 6 Traffic Management Act (TMA) 2004 (TMA).
- 7.2.2 Powers to undertake aspects of the vehicle removal function are provided through the Refuse Disposal (Amenity) Act 1978, the Road Traffic Regulation Act 1984, the Removal and Disposal of Vehicles Regulations 1986, the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 and the Clean Neighbourhoods and Environment Act 2005.
- 7.2.3 Traffic Regulation Orders (TROs) are implemented by virtue of the Road Traffic Regulation Act 1984.

## 7.3 Financial Implications

- 7.3.1 The report seeks approval to extend the existing contract for one year at an estimated cost of £3m based on existing levels of enforcement activity. This is to be funded within the existing parking enforcement budget and generate income through enforcement activity. The contract cost consists of a fixed element for core services and a variable element for flexibility of deployed hours for Civil Enforcement Officers depending upon increasing/decreasing levels of parking infringements.

## 7.4 Procurement Implications

- 7.4.1 Regulation 72(1)(c) of the Public Contracts Regulations 2015 applies in this instance as follows:
- I. There is insufficient time to adopt the new moving traffic enforcement powers, which will only be released once the Council has completed public consultations and all other necessary preparations, which includes a review of signage and digitising of

all Traffic Regulation Orders. The delay has not been brought about by the Council which has acted diligently at all times;

- II. the proposed extension does not alter the nature of the contract; and
- III. the value of the proposed extension does not exceed 50% of the original contract value, which was £14m.

7.4.2 The Council will publish a voluntary ex-ante transparency (VEAT) notice in Find a Tender Service setting out the nature and extent of the modifications.

7.4.3 The Council will commence a re-commissioning activity for the provision of the services following Cabinet approval.

## **7.5 Human Resources Implications (if required)**

7.5.1 None

## **7.6 Public Sector Equality Duty**

7.6.1 The requirements of Standing Order No. 9 in respect of the Council's Equal Opportunities Policy have been incorporated into the contract.

7.6.2 The requirements of the Equality Act 2010 have been specifically included in the contract to comply with the Act.

7.6.3 A stage 1 Equalities Report (EAR) was carried out as part of the Tender Strategy for Civil Parking Enforcement Services (P129) report which did not identify any adverse equalities implications within the service which is subject of procurement and therefore was not necessary to progress to a Stage 2. This has been reviewed and nothing has changed since (Appendix 1).

## **8 List of Appendices accompanying this Report (if any):**

8.1 Appendix 1 Equalities Analysis

8.2 Exempt Appendix 2

## **9 Background Documents**

9.1 Tender Strategy for Civil Parking Enforcement Services (P129) – Public Report 14th July 2014.

9.2 Contract Award for Civil Parking Enforcement Services (P129) - Public Report, 8th December 2014.

9.3 Report to Cabinet dated 20 April 2021 - Contract Extension - Civil Parking Enforcement Services (P129)