This Report will be made public on 7 November 2023



Report Number C/23/53

To:	Cabinet
Date:	15 November 2023
Status:	Key Decision
Responsible Officer:	Andy Blaszkowicz, Director of Housing and Operations
Cabinet Member:	Cllr Polly Blakemore, Cabinet Member for Transport, Regulatory Services and Building Control

SUBJECT: PARKING ENFORCEMENT CONTRACT

SUMMARY: The Parking Enforcement Contract ends on 31 March 2024. The contract is currently with NSL Services part of Marston Holdings Ltd. The council has tendered the contract as well as evaluated the option of returning the service in-house.

REASONS FOR RECOMMENDATIONS:

The recommendation is to award the Parking Enforcement Services contract to Marston Holdings Ltd, who are owners of the incumbent supplier NSL Services. The reasons for this recommendation are detailed in Part 4 and 5 of the report. In summary these are, the quality evaluation response received, the competitive difference in costs between the tender price and in-house service options, and the continued economic benefit of the 'hours worked' method of charging.

RECOMMENDATIONS:

- 1. To receive and note report C/23/53.
- 2. To award the Parking Enforcement Services Contract to Marston Holdings Ltd for the initial period of four years starting 1 April 2024.

1. BACKGROUND

- 1.1. The Parking Enforcement team was originally outsourced to NSL Ltd in 2012. NSL successfully retained the contract when it was next re-tendered in 2017. The current contract ends 31 March 2024.
- 1.2. The outsourced contract is limited to the Parking Enforcement team generally comprising ten full-time Civil Enforcement Officers (CEOs) and a full-time Civil Enforcement Supervisor.
- 1.3. In terms of main responsibilities for the provision of parking enforcement services, these are split between the contractor and the council as follows: -

Contractor (NSL)

- CEO Team
- Deployed hours
- Contract Manager
- HR/Recruitment/Payroll Services
- Enforcement Vehicles (3 cars)
- Uniforms/PPE
- Mobiles
- Handhelds & Printers maintenance & damage only
- PCN ticket rolls/other notices
- CEO Office IT

FHDC

- Office Accommodation
- Handhelds & Printers (council retain ownership)
- Handheld integration with Parking IT System
- PCN administration
- 1.4. In terms of cost, the contract is charged on a 'worked hours' basis, with a <u>minimum</u> of 320 deployed hours each week. The annual contract cost for 22/23 was £433,426, based on 17,927 total hours worked. The projected cost for 23/24 based on an estimated 17,546 hours worked is £ 475,321.¹ The contract schedule of rates is uplifted each year in April by CPI.
- 1.5. The contractor receives no income from the Parking Contravention Notices (PCNs) issued nor receives bonuses or incentives from the issuing of PCNs.
- 1.6. The contract has Key Performance Indicators (KPIs), which are used for performance monitoring. The main KPIs are the minimum hours deployed, delivering the monthly report and the % error rate. Legally, the council cannot set PCN performance targets.

2. CONTRACT REVIEW

¹ Based on actual hours to September and 22/23 equivalent from October 2023.

- 2.1. The Parking Enforcement contract was originally outsourced in 2012 with the intention to reduce costs and improve performance. The main advantages of the contracted service were the reduced costs of recruiting new CEOs to NSL standard terms and conditions and that the service was charged on a hours worked basis so the contractor would bear the risks of staff sickness absences. The existing staff were transferred to NSL retaining their council terms, conditions and pay scales under TUPE. Subsequent pay awards for the ex-FHDC staff have been linked to council pay awards.
- 2.2. In the first contract period with NSL (2012-2017), the 'hours worked' charging was financially beneficial to the council as there were prolonged absences due to sickness within the team. Whilst NSL would have absorbed within their schedule of rates an element for lost time due to sickness, the level of sickness and cost of backfilling was probably more than anticipated.
- 2.3. The contract was reviewed in 2016 prior to the next tender. At that time, it was estimated that the contract compared to an in-house service had saved an average of £11,000 p/a over the five-years. The savings from outsourcing were always expected to be comparatively moderate due to the small number of staff involved and the financial arguments for the continued outsourcing of the service were dependent on competitive bids being received at the next tender.
- 2.4. Competition at the 2017 tender was limited to two companies, with NSL succeeding on a price and quality evaluation albeit with an uplift in rates. During the second contract period, NSL were taken over by Marston Holdings Ltd.
- 2.5. A summary of the contract costs and performance over the second contract period 2017-2024 is shown in the table below.

	17/18	18/19	19/20	20/21	21/22	22/23	23/24
In-house Estimate*	£ 412,949	£ 412,949	£ 412,949	£ 412,949	£ 412,949	£ 412,949	£ 412,949
Budget	£ 377,890	£ 387,510	£ 396,110	£ 404,010	£ 418,250	£ 422,640	£ 462,370
Actual	£ 350,594	£ 375,885	£ 408,501	£ 350,213	£ 407,262	£ 433,426	£ 475,421
Inflation Uplift ****	N/A	2.5%	1.9%	1.5%	0.7%	7%	10.1%
Contract Indexation	100	102.50	104.45	106.01	106.75	114.23	125.77

Table 1 - Contract Performance

Actual (Excl. Inflation)	£ 350,594	£ 366,717	£ 391,097	£ 330,358	£ 381,488	£ 388,991	£ 378,008
Saving (Excl. Inflation) To In- house	£ 62,355	£ 46,232	£ 21,842	£ 85,591	£ 31,461	£ 23,958	£ 34,941
Total hours Worked	17684	18307	19174	17782	18423	17927	17546 (est)
Av Hours Per Week	340	352	369	342	354	345	337 (est)
PCNS	19292	21502	21580	14556	19255	18445	N/A
PCNS Cancelled	2445	2525	2338	1547	2285	1871	N/A
Average PCN Per Hour	1.1	1.2	1.1	0.8	1.0	1.0	N/A

* Figures from CLT Report 26/04/16

- 2.6. The main points to note: -
 - The average of 1 PCN per worked hour has been maintained other than in the pandemic impacted year of 20/21. The % of PCNs cancelled due to CEO error has also remained within the contract standard.
 - The contract has made a saving against the notional in-house cost. Compared to the first contract period, the outsourced saving increased as there were more CEOs employed on NSL's terms and conditions during the second contract period. However, the periods 22/23 and 23/24 have seen contract inflation (linked to CPI) of 7% and 10.4%. Whilst council costs would have increased over this period, it is a reasonable assumption that contract inflation has outstripped the comparable internal council cost 'inflation' in these years.
 - Weekly average hours worked have exceeded the 320 hours minimum other than in 18/19 but remained at the lower end of the maximum hours available. This is in part due to long-term illness within the team in the early years of the current contract. From 22/23, recruitment to vacant posts has been more difficult, averaging between 1-2 vacant posts each month. This has impacted on worked hours although NSL have covered short-term absences by bringing in staff from other contracts elsewhere.
- 2.7. Similar conclusions can be drawn in relation to the second contract period as from the first contract period, in that the council continues to benefit from the 'hours worked' model in terms of staff sickness and absence and the

general performance of the contract compared to the KPIs. Differences from the first contract period were increased financial risk from inflationary spikes (as seen in 22/23 and 23/24) and the contractor's increased difficulties in recruiting and retaining staff.

3. TENDER PREPARATION

- 3.1. In preparing for the tender, consideration was given to the expected level of competition and the option of bringing the parking enforcement service inhouse. Based on the experience of the previous tenders, the limited scope of the contract and limited competition, it was not anticipated that the tender would attract many bidders. We did carry out some early market engagement and issued a prior information notice to alert bidders, however we expected the main competition to be the option of returning the service in-house.
- 3.2. Additionally, we also investigated the possibility of running a shared in-house service with DDC, but this did not progress beyond initial discussions as there did not appear to be any clear advantages for either local authority.

On-Street Enforcement

- 3.3. As with previous tenders, there was a review of the scope of the service, which included consideration of whether to continue on-street enforcement. The council enforces on-street parking on behalf of Kent County Council under the terms of an agency agreement. Terminating this agreement would require a two-year notice period by either party.
- 3.4. On-street parking incomes include permit income, on-street parking income and PCNs issued. KCC had planned a review of on-street parking enforcement, but this was delayed due to the pandemic. They have confirmed that this review remains pending but with no confirmed timeline. There is the risk that in the period of a future parking enforcement contract, KCC may choose to directly deliver on-street parking enforcement.
- 3.5. Historically, the provision of the on-street parking enforcement service has run at a financial deficit. Since 2015/16 the financial performance has been more mixed with 16/17 and 17/18 in surplus but with an increased deficit in the pandemic impacted years with a deficit of £ 85,869 continuing into 21/22. In comparison, the off-street service runs at a surplus increasing to £ 608,754 in 21/22.
- 3.6. Discontinuing on-street enforcement and returning it to KCC (after a two-year notice period) could potentially result in a saving for the council. There would however, be the risk that the council would lose its influence on parking strategy across the district as well as other potential financial implications: -
 - The integration of the on-street and off-street service creates economies of scale, which limits the savings achieved if the service only carried out off-street enforcement due to the number and the locations of council operated car parks. It is estimated that a core team of 6 CEOs would still be required.

- The KCC approach to on-street enforcement could impact on off-street parking incomes. If KCC provided only a limited enforcement service in the district, then in addition to the parking problems this may cause, it would also undermine the use of the council operated car parks.
- 3.7. For these reasons, it was decided to scope the service based on continuing to enforce on-street parking.

Tender Specification

- 3.8. The tender specification was largely modelled on the existing service specification. The split in responsibilities would continue to be as summarised in paragraph 1.3, with the main council obligations to provide the handheld devices, IT integration as well as office accommodation.
- 3.9. The proposed contract length is four years (starting April 2024) with the option of extending for a further three years.
- 3.10. The tenders received would be assessed on a 50% price and 50% quality basis. Quality would be assessed on the bidders' tender responses to seven evaluation questions covering experience, service transition, complaints handling, sustainability, health and safety, employee engagement and performance management.
- 3.11. For the price evaluation, bidders were asked to provide in a table form a schedule of rates for the different categories of employee by weekday/Saturday and Sunday/Bank Holiday deployment. These rates were applied to an average weekly deployed hourly total of 354 hours and then multiplied up to make an estimated annual cost. The 354 hours were modelled on hours achieved under the current contract. A separate table for motor vehicle costs for the team was included. The annual cost of vehicles to be added to the annual staffing costs making an overall contract cost.
- 3.12. The Schedule of Rates quoted were to be applied from the start of the new contract in April 2024. In subsequent years, indexation would be applied based on CPI.

Minimum Weekly Hours Worked

- 3.13. In reviewing the specification, consideration was also given to the difficulties with staff recruitment and retention experienced in the final years of the current contract.
- 3.14. The current contract stipulates that the contractor must deliver a minimum of 320 hours each week. If this is not achieved, the contract allows default deductions to be applied. The maximum hours are limited by the team size, vacant posts, and sickness absence.
- 3.15. Since the pandemic, recruitment to the parking enforcement team has been more difficult due to general labour shortages and the impact of higher wage costs. At this present time, the team has one vacancy and two part-time staff

working 22.5 hours². This has impacted on the average weekly hours, particularly during 23/24.

3.16. It was decided in the tender, the council would request that bidders priced on the existing approach of 320 minimum hours, and an increased 340 minimum hours. The purpose of this is to mitigate the risk of contractors underbidding the contract and running with vacancies rather than competitively recruiting. It was expected that this would push up the tender prices but would improve resilience and the ability to scale up deployments if needed.

4. TENDER OUTCOME

- 4.1. The parking enforcement tender was published on the Kent Business Portal and nationally on Contracts Finder on 7 August 2023. The deadline for tender returns was 18 September 2023.
- 4.2. Five companies expressed an interest in the tender but only one bid was received by the tender deadline from the incumbent supplier Marston Holdings (owners of NSL Services). The bid received was assessed as compliant and the outcome from the tender evaluation is summarised in the table below.

Supplier	Marston Holdings
SQ Section 1.1 - Potential supplier information	Pass
SQ Section 1.2 - Bidding model	Pass
SQ Section 1.3 - Contact details and declaration	Pass
SQ Section 2 - Grounds for mandatory exclusion	Pass
SQ Section 3 - Grounds for discretionary exclusion	Pass
SQ Section 4 - Economic and Financial Standing	Pass
SQ Section 5 - Bidding Model / Structure	Pass
SQ Section 6 - Technical and Professional Ability	Pass
SQ Section 7 - Modern Slavery	Pass
SQ Section 8 - Additional Questions	Pass
ITT Section 2.2 - Q1 Experience	3 (out of 5)
ITT Section 2.2 - Q2 Service Transition	3 (out of 5)
ITT Section 2.2 - Q3 Sustainablility	4 (out of 5)
ITT Section 2.2 - Q4 Employee Engagement	4 (out of 5)
ITT Section 2.2 - Q5 Performance Management	4 (out of 5)
ITT Section 2.2 - Q6 Complaints	5 (out of 5)
ITT Section 2.2 - Q7 Health & Safety	5 (out of 5)
ITT Section 4 - Terms & Conditions	Pass
	Fully
ITT Section 5 - Form of Tender	Completed

² NSL standard terms and conditions - 42.5 hours.

Total Quality Score (50%)	38.80%	
Total Price Score (50%)	50.00%	
Total Score (100%)	88.80%	

- 4.3. The annual tender price (based on an estimated 354 average weekly hours see 3.11) is £498,581.
- 4.4. In terms of environmental sustainability, Marston Holdings Ltd propose replacing the current motor fleet with three electric vehicles.

Service Transfer to the Council

- 4.5. We had not expected to receive many bids but were still disappointed by the limited response. Factors that possibly deterred other bidders include the relatively small scale of the contract, narrow profit margins, economic uncertainty, and a long-term incumbent supplier. However it was anticipated that the principal competition would be from an in-house service option. Alternative cost models for an in-house service were prepared in advance of the tender and updated with the latest TUPE employee information.
- 4.6. At a practical level, the transfer of the service to the council would require consideration and planning for the following: -
 - IT Integration The handheld devices are already supplied by the council as well as the integration with the parking system, there are minimal IT requirements in transferring the service back to the council. The devices are reaching end of life and will need to be replaced probably from next financial year, but this is a financial cost external to the cost of the contract and would need a separate growth bid.
 - Staff Transfer The main issues would be the pension transfer and completion of the TUPE consultation process. A longer lead in time would be preferable for transferring the parking enforcement team back in-house but a shorter lead in period (i.e. three months) would be deliverable.
 - Supply Arrangements Supply of uniforms, ticket rolls, new lease vehicles and PPE would need to be arranged. The council may need to make supply arrangements before the current contract expires.

None of these considerations make a service transfer to the council impractical at the expiry of the current contract.

4.7. Staff would transfer back on their current terms and conditions. There is currently a difference in pay scales, contracted hours, annual leave between staff employed by NSL and the original ex-FHDC staff, who under TUPE have retained their original employment terms and conditions. For the council, maintaining two different sets of employment terms would be difficult to justify and sustain in the long-term.

Financial Assessment

- 4.8. With the challenging budget position, one of the main considerations is the comparable costs between continuing to outsource the service and an inhouse service model.
- 4.9. Making a direct like-for-like comparison is difficult. For example, the outsourced service is charged on hours worked rather than the full salaried cost of an in-house service. It is also difficult to predict any eventual outcome of a team-wide job evaluation process intended to standardise the employment terms and conditions between the transferred staff.
- 4.10. Table 2 (see below) outlines various financial scenarios that have been developed for the purpose of making a comparison between a contracted and in-house service option. <u>Please note the scenarios in the table are not presented as individual service alternatives or options. For reasons explained further, the comparison of options available to the council is effectively between (in-house) Scenario 3 and (NSL) Scenario 4 which have been highlighted. The scenarios below are modelled on the current TUPE list, which comprises eleven staff (10 FTE): -</u>
 - 1 Civil Enforcement Team Supervisor on NSL terms (42.5 hours weekly)
 - 3 Civil Enforcement Officers full time on NSL Terms (42.5 hours weekly)
 - 1 CEO full time on NSL terms currently vacant (42.5 hours weekly)
 - 2 CEOs part time on NSL terms (22.5 hours weekly each)
 - 4 CEOs full time ex-FHDC/TUPE on council terms (37 hours weekly)
- 4.11. The 'in-house' scenarios include salary costs, an estimate for weekend, bank holiday and overtime enhancements, other direct operational costs (e.g. vehicle leases) and internal recharges (other than Scenario 1) estimated based on pre-2012 allocations.
- 4.12. The 'NSL' scenarios are based on the tendered schedule of rates including vehicle leases and then calculated on a range of different average weekly hours.
- 4.13. In Table 2, the 'average weekly hours worked' column is calculated on the total contracted hours minus annual leave and bank holidays. It is a notional maximum as it does not include sickness and other absences. CEOs on NSL employment terms receive 28 days leave including bank holidays. Former FHDC CEOs remain on 39 days including bank holidays.
- 4.14. The parking enforcement team have a team supervisor who reports directly to the local NSL client account manager. The NSL client account manager allocates two working days per week to managing the team. The cost models for the in-house scenarios do not include a provision for an equivalent manager to be additionally employed. The assumption would be that the management of the team and team supervisor would be allocated within the council's current management structure. If this was not possible, it would result in an additional service cost for a new manager, which would further increase the in-house costs across each relevant scenario.

	Description	Average Hours P/W	24/25	
1A	In-house Costs - Based on current pay scales and T&Cs Excl. FHDC Recharges	362 Max	£	495,751
1B	In-house Costs - Based on current pay scales and T&Cs Incl. Recharges	362 Max	£	542,551
2	In-house Costs - Based on all staff on FHDC equivalent (Grade D) Incl. Recharges	330 Max	£	578,593
3	In-house Costs - Based on all staff on FHDC equivalent (Grade D) Incl. Recharges	361 Max	£	616,622
4	NSL Contract - Projected Cost 24/25 based on tender rates (Sept 2023)	354	£	498,581
5	NSL Contract - 24/25 Tender rates based on 23/24 hours YTD and 22/23 Estimate	337	£	490,814
6	NSL Contract - 24/25 Tender rates based on best recorded hours 19/20	369	£	522,189

Table 2 - In-house and Outsourced Cost Scenarios

- 4.15. **Scenario 1A** is based on a transfer of the parking enforcement team to the council on their existing terms and conditions, with pay linked to the nearest equivalent FHDC scale. The NSL terms staff would continue to be on 42.5 contracted hours per week. The former FHDC TUPE staff would transfer back on their current terms, contracted to 37 hours per week. The maximum average weekly hours that could notionally be worked (i.e. with no sickness absence) would be 362 hours. This would be the likely situation immediately post-transfer but there would be an immediate need to begin a process of harmonising terms and conditions as described in 4.17 which is expected to result in higher overall costs to the council.
- 4.16. **Scenario 1B** is on the same basis as Scenario 1A but includes an estimated £45,000 internal recharges based on pre-2012 figures. Whilst internal recharges can be considered as simply the re-allocation of existing costs, they do give an indication of time/cost of managing and supporting the service. HR cost allocation was proportionally higher for a team of this size. Please note that the in-house scenarios do not include the provision for the recruitment of a parking team manager which is the council equivalent of the current client account manager.

- 4.17. Scenario 2 is based on a transfer of the parking enforcement team to the council on their existing terms and conditions, but with the NSL terms staff then moved the same grade as the former FHDC staff (Grade D) and the parking supervisor moved to Grade E. The contracted hours would also be set at the standard 37 hours for all staff. This is a likely outcome as it would be difficult to sustain the differences in pay scales and other terms and conditions within the same team. This could be subject to a formal employment challenge or would arise when new staff were recruited. Please note in this scenario, the maximum average weekly hours fall to 330 hours, equivalent to the loss of 1 CEO's contracted hours each week and therefore a reduction in service level. With the team already enforcing an increased number of parking schemes and with the enforcement demands over the summer months, this would leave the team under resourced and lacking resilience. The recruitment of an additional member of staff to make up the shortfall in hours would need to be considered.
- 4.18. **Scenario 3** is on the same basis as Scenario 2 but with the additional employment of an extra CEO to increase the maximum average weekly hours to the same level as currently provided. This is the scenario used for comparison purposes with the Marston Holding's tender. The reason for this is that it is the most likely outcome in terms of any internal review and harmonisation of the different pay scales and terms and conditions and provided a comparable number of maximum available hours.
- 4.19. **Scenario 4** is the annual contract cost based on the schedule of rates received in the Marston Holdings' tender. The rates used are from the increased 340 minimum weekly hours option and have been used for all the other NSL scenarios.
- 4.20. **Scenario 5** is the annual contract cost based on the actual year-to-date and estimated hours for 23/24.
- 4.21. **Scenario 6** is based on the best achieved average hours worked during the current contract period in 19/20³.
- 4.22. In summary, the financial comparison for the reasons stated above is between (in-house) Scenario 3 estimated at £616,222 p/a, and (NSL) Scenario 4 estimated at £498,581 p/a. On this basis, the financial assessment is balanced in favour of continuing to outsource the parking enforcement team. The arguments are similar to when the service was first contracted. There is a financial saving, depending on how pay scales were to be standardised if the service returned in-house. Based on Scenario 3 and Scenario 4, the cost of bringing the service in-house would be an additional 23% of the annual service costs. There is also the continued financial benefit of paying only for hours worked. The main financial risks are the risk of higher-than-expected contract inflation eroding the competitive advantage of outsourcing the service during the term of the next contract, and the risk that recruitment and retention remains difficult.

³ The parking team in 2019/2020 operated with 11 FTE staff, which increased the maximum workable hours.

5. **RECOMMENDATION**

- 5.1. The recommendation is to continue to outsource the service and to award the contract to Marston Holdings (NSL) for the initial period of four-years starting from 1 April 2024.
- 5.2. The reasons for this recommendation are: -
 - The tender response received from Marston Holdings and the quality evaluation.
 - The competitive difference in the estimated annual contract costs as set out in the tender, compared to the estimated in-house service costs.
 - The continuity of service arrangements.
 - The 'hours worked' charging model and the increase to 340 minimum weekly hours, which reduces the risk to the council from sickness absence and recruitment.

6. RISK MANAGEMENT ISSUES

6.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
Recruitment/ Retention of Staff	Medium	High	Contracted increase in minimum worked hours from 320 each week to 340 each week. Contract default deductions can be applied, if the minimum hours are not achieved.
Council control over staff deployment and routes.	Medium	Low	The new contract is on a similar basis as present in that the council has set the general deployments and routes and has the authority under the contract to amend these.
Financial Cost	High	High	

			The purpose of tendering was to test the market for the most economic advantageous tender. The overall level of competition and response was disappointing, but the tender price received is competitive compared to in-house service options.
Contractor Service Failures	Medium	Low	The contract includes a performance mechanism that includes financial deductions for service failures (e.g. % CEO errors, uniform and minimum hours).
Higher-than- expected contract inflation	Medium	Medium	Difficult to mitigate due to wider economic factors. Contract indexation linked to CPI.
On-street enforcement – KCC end agency agreement	Low	Low	The risk is that if KCC end the on-street agency agreement the council could have contracted for additional staff/deployment hours than needed. There would be a two- year notice period, which would allow time for vacancies within the team to arise.

7.1 Legal Officer's Comments (NM)

There are no legal implications arising directly from this report. External solicitors have been assisting with the procurement process which included modernising the existing contract for supply of parking enforcement services.

7.2 Finance Officer's Comments (RH)

It is noted the recommendation is to continue to outsource the Parking Enforcement contract. Contract inflation (7.9% - which is the rate used for budget preparation calculations) will be added to the base budget, making an estimated 2024/25 budget of £498,900 (subject to budget approval).

7.3 **Diversities and Equalities Implications (GE)**

There are no equality and diversity implications directly arising from this report.

7.4 Climate Change Implications (OF)

There are no climate implications arising from this report.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting -

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