

Decision Report - Executive Decision

Forward Plan Reference: FP/23/11/07

Decision Date – 25 June 2024

Key Decision – Yes

Confidential Information – No



Report Title – Contract Award for the Provision of Parking Enforcement and Related Services

Executive Member(s): Lead Member for Transport and Digital

Local Member(s) and Division: All

Lead Officer: Mickey Green – Executive Director – Climate & Place

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Summary / Background

1. This decision report considers the current financial position of Somerset Council and whether a further short term contract for the delivery of Parking Enforcement and other related services is appropriate and keeps inflationary contract enforcement costs at a minimum.
2. The current contract awarded to NSL in 2012 has utilised the initial 10 year period along with a further two year period to enable the new Somerset Council to become established and identify the scope of how parking should be managed across the new authority.

The contract expiry date of June 2024 requires a decision to be made as to the way forward.

Work had commenced with the Commercial and Procurement team to commence a procurement process and test the market being the default position.

However, when the financial emergency was declared by the Council it was considered appropriate to consider other options as there was a real risk following recent Council tender experiences and the current contractual indexation would create a risk for the Council of significant increased costs.

With the current financial position it is critical that all spend is reviewed and steps taken to reduce this wherever possible it is considered appropriate to take an opportunity to reduce the potential for an increased contract cost in the short term.

Investigations have been undertaken as to a suitable way forward to reduce the financial risk of increased costs to the Council and identify a compliant contract award.

The proposal for renegotiated indexation and a new two year contract period was presented to the Control Board in December 2023 who were supportive of the proposal.

Impact of Current Indexation

3. The current contract clauses use an index calculation using KAD8 – Average Weekly Earnings: Public Sector Excluding Financial Services. Due to the settlement of the NHS pay claim (includes two non-consolidated bonus payments) and the Civil Service non-consolidated pay award an unprecedented spike for the recently published June 2023 index has been seen. Appendix 1 clarification email from Office for National Statistics (ONS).

Whilst the indexation anniversary is June, due to the time taken for the ONS to confirm the final index figure, NSL aren't usually notified until towards the end of the calendar year with the indexation backdated to June.

Using the current indexation calculation the NSL contract is due to increase by 15.9% covering the contract year June 2022/2023. This equates to a contract increase of £255,000 per annum.

Contract Negotiations

4. Following discussions and negotiations with NSL, it is proposed to enter into an agreement with NSL with a reduced indexation factor for the contract year 2022/2023.

It is also proposed to commence a new two year contract using the Crown Commercial Service – Transport Technology and Associated Services (TTAS) catalogue. The TTAS provides for the Direct Award of a contract.

Marston Holdings is named on the framework as it provides buyers the opportunity for access to the full range of the Marston Group subsidiaries.

NSL is a wholly own subsidiary of NSL and will continue to operate under the NSL brand to avoid an additional cost of rebranding.

The new contract provides the opportunity to renegotiate the further index factors for June 2024 and June 2025 to enable the Council to predict with greater certainty the ongoing cost of the Contract up to June 2026, when it is anticipated a procurement exercise will be undertaken.

NSL have agreed the new contract period will remain on the same terms including schedule of rates as the existing agreement, apart from the variation to how indexation is calculated.

Recommendations

5. The Executive Director for Climate and Place agrees:

i. To award a new Contract under the Crown Commercial Services (CCS) framework on the basis detailed above with NSL for the provision of Civil Parking Enforcement and related services for a period of 24 months to June 2026.

ii. Authorises the Head of Service for Traffic Management, Road Safety and Parking and the Parking Services Manager to complete the new contract agreement with Legal Services and Procurement using the Transport Technology and Associated Service from the Crown Commercial Service.

Reasons for recommendations

6. The current financial position of Somerset Council requires an intervention to reduce the potential liability for an increased contract cost and provide stability for up to two years after the end of the current contract arrangement in June 2024.

The negotiation of a reduced indexation factor for the contract year June 2022/2023 and having certainty of the contract indexation and overall cost up to June 2026 improved stability is provided during the potentially difficult period should the service of a Section 114 Notice be necessary and whilst Somerset Council navigates the financial emergency.

The continuing service provision enables continuity of services and performance which often dip should there be a change of contractor following the outcome of a tender process.

Other options considered

7. a) Stop Parking Enforcement – ending of the service has been discounted for the following reasons.

Civil Parking Enforcement (CPE) is an important tool in the management of safety and reduction of congestion on the highway network along with encouraging modal shift to other forms of active travel/transport; i.e. walking, cycling and public transport. The management of safety and reduction of congestion on the network is key statutory objective that could not be achieved without a parking enforcement service.

The management of parking also includes a large number of Council car parks that generate a significant revenue for the Council. The ending of parking enforcement would result in the removal of a deterrent for drivers to avoid parking charges. The level of income would fall very quickly along with a rise in congestion.

A reduction in the level of service would have a similar impact for no real financial benefit in terms of a reduce contract price. The Council pays for the service mainly through the delivery of hours and associated permit schemes and on street charges. These along with the service of penalties the civil enforcement officers cover their costs.

b) Insource - the transfer of the enforcement service to the Council. This option has been discounted on grounds of cost. The use of a 3rd party specialist contractor that has a significant wealth of experience in recruiting and training is considered the most cost-effective method of service delivery.

Insourcing the enforcement officers based on their current equivalent pay would result in positions at Grade 14 with an annual salary in the region of £23,000. This would incur a Local Government Pension Scheme contribution of 17% (current contribution 3%), the additional cost per enforcement officer would be approximately £3,900 per individual. Based on the current establishment of 50 enforcement officers this would create an additional cost of circa. £195,000 with further costs for the managers and supervisors.

A further additional cost is likely to be incurred due to the additional Local Authority sickness policy of 6 months full pay and 6 months half pay. Currently the contractor sick pay scheme entitles staff to receive the following after 3 days absence.

Less than 6 months service	Nil
6 months to 2 years service	15 Days
2 to 5 years service	30 Days
5 to 8 years service	45 Days

The insourcing therefore creates a potential additional liability in respect of sick pay.

c) Commence procurement - The number of organisations providing this type of service has remained low over the last few years. This is due to the high level of entry costs. With approximately 80% of contract costs relating to payroll and local authority invoicing arrangements there is a significant cashflow requirement. This along with the requirement to recruit and train a regulated workforce has not seen an increase in providers.

The lack of competing organisations and the short-term nature is unlikely to result in a competitive competition, particularly as other companies will only have a two-year payback period for investment. The current incumbent (NSL) whilst having little or no investment, may take the opportunity to reset their pay rates, particularly as pay has been increasing both generally and due to the National Living Wage. This would result in an increased contract price due to 80% of costs being payroll.

The current financial position of Somerset Council has been documented in the press, it is therefore highly possible that any proposals received will assess

Somerset Council as high risk with further costs being built into the contract proposal to protect the supplier.

Due to the risk of increasing costs being received this option is not considered to be favourable.

Links to Council Plan and Medium-Term Financial Plan

8. The efficient management and safety of traffic and the reduction in congestion across the network supports the County vision by ensuring residents, businesses and visitors can travel around the County. Reduced congestion supports the reduction in vehicle emissions.

Finances related to Civil Parking are governed by Section 55 of the Road Traffic Regulation Act 1984, which prevents Civil Parking being used for fiscal purposes.

Financial Implications

9. Income relating to Civil Parking Enforcement is received from the following areas.
 - Penalty Charge Notices (including bus gates)
 - Pay and Display Income from On Street Charging
 - Pay and Display Income from Off Street Car Parks
 - Permit Income (within resident permit areas)
 - Dispensation and Suspension Fees

The Somerset Council parking operation fully covers its operating costs and contributes to corporate overheads with a permitted surplus.

This decision enables the cost of delivering the service to be maintained without a significant increase through the negotiated (reduced) contractual indexation and future procurement increase for a period of two years.

The financial savings of renegotiated indexation for the contract year 2022/2023 and the two subsequent years June 2024 and June 2025 along with the new two year contract has been estimated at £740,000 for the 3 year financial period ending June 2026.

Appendix two details the basis of the calculation

Risk Implications

10. The risk of non-performance of NSL has been considered and is not considered a concern that requires specific mitigation.

The use of an available Crown Commercial Service framework enables a complaint award to be made.

The existing contract provides sufficient clauses to enable the local authority to step in and take over the arrangements provided by 3rd parties to NSL.

Should this scenario occur the Council would be able (if considered appropriate) to take over the delivery of the service whilst a replacement Contractor was appointed or Contract arrangements made.

It is considered there is sufficient expertise and knowledge within the current parking team post Local Government Reorganisation to undertake the management of the service.

Please enter risk description					
Legal challenge to the extension of the Parking Contract					
Likelihood	2	Impact	2	Risk Score	4
Please enter mitigation here					
Should it be necessary, NSL have agreed to accept as short a notice period for the end of the contract as is necessary.					

Legal Implications

- 11. Legal services will be engaged to provide any additional contract documents for use with the framework agreements. The use of a compliant route to market is considered to very low risk.

HR Implications

- 12. No additional HR implications have been identified following the previous extensions unless it becomes necessary for the Council to step in and insource the service.

Other Implications:

Equalities Implications

- 13. It is considered there are no equalities implications in agreeing this new contract arrangement.

Members of the public are generally affected at arm’s length by the provision of this service as they will experience less congested journeys.

Members of the public who are directly impacted by the service will be receiving a penalty charge due to their vehicle being parked in contravention of the relevant Traffic Regulation Order.

Civil Enforcement Officers undertake their patrols in accordance with the Councils guidelines and do not exercise discretion at the point the penalty is served to the vehicle. Any discretion and consideration of mitigating circumstances is undertaken by Council Officers.

Civil Enforcement Officers generally have little interaction with the public when serving vehicles as it is the vehicle that receives the penalty.

It is for the reasons above the new contract has no equalities implications.

An Equalities Impact Assessment has been completed and is enclosed.

Community Safety Implications

14. The contract provides a uniformed presence across the main areas of the Council area. The team are seen as ambassadors for Somerset Council, acting as the eyes and ears of the community and able to report to the appropriate authority should inappropriate behaviour or outcomes be identified.

The public also see them as a friendly face who they can approach in cases of emergency or if general information of the area is required.

Climate Change and Sustainability Implications

15. The impact of the Covid pandemic has resulted in a change in how the individual enforcement officers are deployed.

Prior to Covid most of the team commenced the working day from a central operational base. Since the pandemic the majority are now deployed from their home. This has resulted in a reduction travel to work journeys. NSL continue to investigate low emission vehicle where possible and appropriate when existing vehicle commitments end.

Health and Safety Implications

16. None

Health and Wellbeing Implications

17. The contract contributes to the reduction in vehicle congestion which assists in the improvement of air quality.

Social Value

18. Due to the current financial pressures Social Value impacts have not been considered.

Scrutiny comments / recommendations:

19. The proposed decision has not been considered by a Scrutiny Committee.

Background

20. The current contract with NSL for parking enforcement and associated services has been extended three times. The first extension occurred in 2017 for an initial period of three years to June 2020. The 2017 extension involved the insourcing of back office notice processing and IT services. The insourcing required the recruitment a new team of parking administrators along with the procurement of a new parking IT system. Since insourcing this element of the service there have been no concerns raised from the public in respect of the quality of service received. The market leading IT system has enabled the development of additional digital permit services for both the previous County and District users. This has enabled the Council to make significant improvement in providing digital by default services. The remaining permit areas involving a non-digital process will be phased out as the suppliers IT system is developed.

The second extension to June 2022 continued the service on the same basis other than the introduction of a number of service credits should the service fall below the expected level. Minimal use of service credits has been necessary.

The third extension to June 2024 was agreed to enable the new Somerset Council to consider its options as to how parking enforcement is delivered across the new authority.

The current proposal for a further period of two years provides certainty in respect of the contract price for this extremely challenging period for the Council. Appendix 2 details the estimated saving in agreeing this new arrangement.

Background Papers

21. Existing Contract agreements.

Appendices

Appendix 1 - Clarification email from Office for National Statistics




Appendix 2 – Analysis of financial impact

Assurance checklist (if appropriate)

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	28 May 2024
Communications	Peter Elliott	23 May 2024
Finance & Procurement	Nicola Hix	Sent 24 May 2024 2 June 2024
Workforce	Alyn Jones	22 May 2024
Asset Management	Oliver Woodhams	21 May 2024
Executive Director / Senior Manager	Mickey Green / Mike O'Dowd-Jones	20 May 2024
Strategy & Performance	Alyn Jones	22 May 2024
Executive Lead Member	Richard Wilkins	12 June 2024
Consulted:	Councillor Name	
Local Division Members		
Opposition Spokesperson	Cllr Diogo Rodrigues	Sent 13 June 2024
Scrutiny Chair	Cllr Martin Dimery	Sent 13 June 2024

Somerset Equality Impact Assessment

Before completing this EIA please ensure you have read the EIA guidance notes – available from your Equality Officer or www.somerset.gov.uk/impactassessment

Organisation prepared for (mark as appropriate)	 Somerset Council	 NHS Somerset	 NHS Somerset NHS Foundation Trust
Version	1.0	Date Completed	29 April 2024
Description of what is being impact assessed			
<p>Contract Award for the provision of Parking Enforcement and Associated Services including the management and supervision of Civil Enforcement Officers, operation of hand held enforcement technology, body worn cameras, cash collection, reconciliation, banking of parking income, and provision of a suspension and dispensation service.</p>			
Evidence			
<p>What data/information have you used to assess how this policy/service might impact on protected groups? Sources such as the Office of National Statistics, Somerset Intelligence Partnership, Somerset's Joint Strategic Needs Analysis (JSNA), Staff and/ or area profiles,, should be detailed here</p>			
<p>None – the contract relates to the management of parking by vehicles the drivers of which and any protected group are unknown. Holders of blue badges that display the badge have identified the vehicle as being used by a protected group. The contract allows for additional measures to ensure they are not inconvenienced by the terms of the contract; i.e. additional time for parking provided without charge.</p> <p>Due to the individual officers working in public areas they are likely to interact with the public. The officers receive initial training when recruited covering the potential impact of their role including their language and skills to deal with neurodiversity, conflict</p>			

situations, equality, diversity and understanding the impact of misgendering people. Annual refresher training is provided by the contractor to ensure their knowledge is kept up to date based on individual experiences and changes in legislation and National Guidance. Details of training undertaken by the Contractor is detailed below.

Who have you consulted with to assess possible impact on protected groups and what have they told you? If you have not consulted other people, please explain why?

None for the same reason as above.

Analysis of impact on protected groups

The Public Sector Equality Duty requires us to eliminate discrimination, advance equality of opportunity and foster good relations with protected groups. Consider how this policy/service will achieve these aims. In the table below, using the evidence outlined above and your own understanding, detail what considerations and potential impacts against each of the three aims of the Public Sector Equality Duty. Based on this information, make an assessment of the likely outcome, before you have implemented any mitigation.

Protected group	Summary of impact	Negative outcome	Neutral outcome	Positive outcome
Age	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact, holders of blue disabled driver badges that are displayed are provided with additional time to undertake their activity/business whilst parking. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Gender reassignment	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□
Marriage and civil partnership	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□
Pregnancy and maternity	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□
Race and ethnicity	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□
Religion or belief	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□
Sex	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□

Sexual orientation	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□
Armed Forces (including serving personnel, families and veterans)	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□
Other, e.g. carers, low income, rurality/isolation, etc.	<ul style="list-style-type: none"> having considered this protected characteristic we do not foresee any positive or negative disproportionate impact 	□	⊗	□

Negative outcomes action plan

Where you have ascertained that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.

Action taken/to be taken	Date	Person responsible	How will it be monitored?	Action complete
Monitoring to be undertaken to ensure training is carried out by contractor	23/06/2025	Parking Services	Training Records	□
	Select date			□
	Select date			□
	Select date			□
	Select date			□

	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
	Select date			<input type="checkbox"/>
If negative impacts remain, please provide an explanation below.				
Completed by:	Steve Deakin			
Date	29 April 2024			
Signed off by:	Bev Norman			
Date	16 May 2024			
Equality Lead sign off name:	Tom Rutland			
Equality Lead sign off date:	13 June 2024			
To be reviewed by: (officer name)	Steve Deakin			
Review date:	June 2026			

Training Areas Covered by Contractor
Anti-Bribery & Corruption
Data and Transaction Working for Us Pathway
Data Protection and GDPR
Dementia Friends
Equality & Diversity & Inclusion
Fire Safety Awareness
Fraud Prevention
Health & Safety for Managers
Health & Safety Working for Us Pathway
Health, Safety and Environmental Awareness
Information & Cyber Security
Level 1 Award in Mental Health First Aid Awareness
MAYBO Conflict Management
People and Inclusion
Safeguarding Awareness
Vulnerability, Inclusion & Social Value