

Cabinet – 21 July 2021

Civil Parking and Moving Traffic Enforcement contract:

Portfolio: Councillor Adrian Andrew, Deputy Leader and Regeneration

Related portfolios: None

Service: Highways and Transport

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

- 1 To provide a mechanism to enforce parking, bus lane and moving traffic contravention restrictions that are necessary to maintain the safe and efficient operation of the public highway.

2. Summary

- 2.1 The report requests approval to award a contract for the provision of civil parking and moving traffic enforcement services covering the period from 1 October 2021 – 30 September 2028.
- 2.2 The report further requests approval for a short extension of the existing enforcement contract to enable conclusion of the tender process and 8 week mobilisation period following contract award.
- 2.3 The contracted services will mainly comprise of the on street enforcement of parking and bus lane restrictions and will also include moving traffic contraventions in December 2021 when it is anticipated that the required powers will be made available by the Department for Transport (DfT).
- 2.4 Enforcement of these restrictions will reduce instances of illegal parking that creates risk to other motorists, cyclists and pedestrians whilst also assisting with maintaining the reliability and punctuality of bus services and domestic waste collections.
- 2.5 This is a Key Decision because it will result in the Council incurring expenditure which is, or the making of savings which are, significant, having

regard to the Council's budget for the service and is likely to have significant impact on two or more wards within the borough.

3. Recommendations

Following consideration of the confidential information in the private session of the agenda, Cabinet is recommended to:

- 3.1 Approve the award of contract to APCOA Parking(UK) Ltd for the provision of civil parking and moving traffic enforcement services, 1 October 2021 – 30 September 2026.
- 3.2 Delegate authority to the Executive Director for Economy, Environment and Communities, in consultation with the Cabinet Member for Regeneration, to authorise the award of the additional 2 further optional 1 year extensions, 1 October 2026 – 30 September 2027 and 1 October 2027 – 30 September 2028.
- 3.3 Delegate authority to the Executive Director for Economy, Environment and Communities, in consultation with the Cabinet Member for Regeneration, to authorise the signing and sealing of the contract documentation.

4. Report detail - know

Context

- 4.1 Since 2007 when civil parking enforcement powers were granted to the Council, the enforcement of parking restrictions, and from 2009 bus lane restrictions, have been undertaken through external contractual arrangement in accordance with the approval of Cabinet.
- 4.2 Management of the appeals process is undertaken in house as it is a requirement of the Traffic Management Act 2004 that appeals decisions are made directly by the Council.
- 4.3 The current parking and bus lane enforcement contract with APCOA Parking (UK) Ltd commenced on 1 August 2014 and is due to end on 31 July 2021.
- 4.4 Neighbouring authorities in Birmingham, Sandwell, Solihull and Wolverhampton also undertake their enforcement of parking and bus lane restrictions through external contractual arrangements.
- 4.5 Provision of the on street enforcement service through external contractual arrangement is still considered to be the most cost effective and appropriate mechanism in an area of work that historically has high levels of staff turnover. The ability to specify a requirement for a number of deployed enforcement hours rather than a set number of employees is essential. Given the nature of the role, the ability to easily and quickly adjust staffing resources to the enforcement requirement is critical in ensuring the efficient and effective ongoing operation of enforcement activity. This was particularly evident

throughout the Covid-19 pandemic where resource deployment and associated cost was varied significantly to meet changing demand.

- 4.6 A tendering exercise has been undertaken for the future provision of the enforcement service. 14 expressions of interest were initially registered and resulted in 2 tenders being submitted by the deadline.
- 4.7 The tendering exercise has taken into consideration that the Council is likely to receive moving traffic contravention powers by the end of this calendar year. However, this is reliant upon the required statutory instrument and associated statutory guidance to local authorities being published by DfT.

Council Corporate Plan priorities

- 4.8 The award of contract will support the refreshed 2021-22 Corporate Plan priority outcomes in the following way:
- **Economic Growth for all people, communities and business**
The provision of an effective civil parking and moving traffic enforcement service will assist with the safe and efficient operation of public highway. This creates an environment where business feel confident to invest and everyone who wants a job can access one.
 - **People have increased independences, improved health and can positively contribute to their communities**
Illegal parking often creates unnecessary traffic congestion that can have a negative impact on air quality. Instances of this will be reduced as a result of civil parking and moving traffic enforcement activity. This will have positive impacts on health and support people to live a good quality of life.
 - **Internal Focus – All council services are efficient and effective**
The delivery of civil parking and moving traffic enforcement activities through contract arrangements will support the delivery of an efficient and value for money service that ensures the delivery of statutory duties imposed by the Traffic Management Act 2004.

Risk management

- 4.9 Failure to adequately discharge the statutory network management duty imposed by the Traffic Management Act 2004, could result in direct intervention by the Secretary of State. Ensuring that appropriate arrangements are in place to undertake enforcement of parking, bus lane and moving traffic contraventions will mitigate against that risk.
- 4.10 There is a risk that the cost of enforcement activity outweighs the income generated from penalty charge notices to offset the cost of enforcement. Should this situation occur, the Council would have to fund the deficit but this

could be recovered from surplus income generated in previous or future years as this is ring-fenced for this purpose in the Traffic Management Act 2004.

- 4.11 There is a risk that without appropriate levels of enforcement, more contraventions of parking, bus lane and moving traffic restrictions will occur. This would result in reduced road safety, increased levels of traffic congestion and parking bays not being used as intended to meet the demands of residents and businesses. This risk is mitigated through the borough wide deployment of sufficient numbers of civil enforcement officers to educate and enforce against motorists found to be contravening those restrictions.

Financial implications

- 4.12 The existing enforcement contract has been in operation for 7 years. Tender costs were based on a fixed cost for the first 5 years followed by a negotiated increase to contract rates for the 2 subsequent optional 1 year extensions.
- 4.13 The existing service cost centre allocation for the contracted enforcement service is £443,000.
- 4.14 The annual cost of the existing contracted enforcement service prior to the ongoing impacts of Covid 19 was approximately £570,000.
- 4.15 To address the short term implications of the inflationary pressures resulting from the 1+1 year contract extensions over and above the base line cost centre allocation, an additional £100k per annum has been provided through the medium term financial plan. This was further supplemented with the use of existing ring fenced balance sheet parking enforcement related reserve.
- 4.16 The tendered cost for the contracted enforcement service comprises of core and optional elements. The optional elements are services not currently provided through the existing contract and extremely unlikely to be called off during the life of the contract. However, they were included to give additional flexibility in the ongoing delivery model should an unanticipated need arise in the future.
- 4.17 The tendered costs are a fixed cost for 5 years and include for all pay uplifts for the initial term of the contract.
- 4.18 There is sufficient reserve to address the anticipated in year shortfall of budget allocation compared to contract cost.
- 4.19 To add context to the scale of budget shortfall, this roughly equates to 50% of all income generated from pay and display parking charges. However, with a contracted enforcement service, there is an ability to match the level of deployment to the budget allocation for delivering the service.

- 4.20 Now that the new tender rates are known, a review of the impact on the medium term financial plan will be undertaken once the legislation has been finalised for the enforcement of moving traffic contraventions.
- 4.21 The cost of delivering the enforcement service in house has been carefully considered. However the review has determined that a contracted out enforcement service remains the most financially advantageous option whilst also providing for the significant flexibility in deployment of enforcement staff that is required.
- 4.22 As part of the contract award, all notice processing and appeals service functions will be delivered by directly employed Council staff. A new G6 post will be created however this will not generate an additional cost pressure as the equivalent cost of the new post is already being met from the existing cost centre.
- 4.23 The cost associated with the short extension to the existing enforcement contract will be met from within existing service budgets.

Legal implications

- 4.24 The Council has a statutory Network Management duty imposed by the Traffic Management Act 2004. Enforcement of parking, bus lane and moving traffic contravention restrictions form part of discharging that duty as the powers have already been decriminalised and granted to the Council.
- 4.25 The Department for Transport (DfT) has undertaken statutory consultation on its intention to enact the full clauses of Part 6 of the Traffic Management Act 2004. This will include granting civil enforcement powers for a range of moving traffic contraventions and bringing bus lane enforcement activity under the Traffic Management Act 2004 rather than the existing arrangements through the Transport Act 2000. DfT has indicated its intention to fully enact part 6 of the Traffic Management Act 2004 within the current calendar year. This will be through statutory instrument that will give these additional powers to all existing councils with civil parking and bus lane enforcement powers.
- 4.26 Legal Services in conjunction with service officers have drafted the contract for the provision of civil parking and moving traffic enforcement services. Subject to Cabinet approval, this will be signed and sealed by both the Council and ACPOA Parking (UK) Limited, to bring the contract into force and make it legally binding on both parties.

Procurement Implications/Social Value

- 4.27 An Open Procedure Procurement Process was used to invite tenders for the provision of civil parking and moving traffic enforcement services. A public

advertisement was placed on the Council's e-tendering portal 'Intend' and published to Contracts Finder and OJEU on 27 April 2021.

- 4.28 Fourteen providers expressed an interest through the e-tendering portal. Two providers submitted a tender by the deadline.

	Tenderer	Location
1.	APCOA Parking (UK) Ltd	Middlesex UB8 2XW
2.	HSG Facilities Management Ltd (trading as National Enforcement Solutions)	Chester CH1 4QL

- 4.29 Tenders were opened on 28 May 2021 by Dave Brown (Director – Place and Environment) and Stacie Williams (Procurement Officer), using a formal opening ceremony on the In-tend e-tendering portal.

- 4.30 Submissions were evaluated in accordance with the criteria published in the Invitation to Tender (ITT).

- 4.31 Weighted Price Criteria:

The evaluation of this section was against information included in the pricing Schedule.

Criteria	Percentage
Price	40%
Total	40%

The price represents 40% of the total weighting. Bidders' price scores were calculated based upon the lowest price submitted based on the lowest bid price received divided by the bid price under evaluation and multiplied by the weighting.

- 4.32 Weighted Non-Price Criteria:

The evaluation of this section was against information included in the Non-Price Criteria Questionnaire:

Criteria	Percentage Weighting
1. Experience	3%
2. Contract Implementation	<i>For information only</i>
3. Management of the Service	15%
4. Working with the Council	5%

5. Operational Policy and Procedures	6%
6. Information Technology	4%
7. Staff Training	5%
8. Performance Indicators and Monitoring	10%
9. Social Value	5%
10. TUPE	<i>For information only</i>
11. Future Development	7%
Total	60%

4.33 Scoring Principles

Score	Score Classification	Scoring Definition
4	Excellent	<ul style="list-style-type: none"> • Response meets the specification requirements • Significant level of evidence that specification objectives and requirements have been met • Significant Added Value and Innovation evident

3	Good	<ul style="list-style-type: none"> • Response meets the specification requirements • Good level of evidence that specification objectives and requirements have been met • Limited Added Value and/or some innovation evident
2	Satisfactory	<ul style="list-style-type: none"> • Response meets the specification requirements • Adequate, basic level of evidence that specification objectives and requirements have been met • No Added Value evident
1	Poor	<ul style="list-style-type: none"> • Response does not meet some of the specification requirements • Limited level of evidence that specification objectives and requirements have been met • No Added Value evident
0	Fail	<ul style="list-style-type: none"> • Response does not meet any of the relevant specification requirements • No evidence that specification objectives and requirements have been met • No added Value evident

4.34 Tender price evaluation, due diligence checks and evaluation summary were completed by Stacie Williams.

4.35 Non-Price Evaluation was completed by:

1. Peter Brookes, Operations Manager
2. Glynnis Jeavons, Parking Services Manager
3. Paul Leighton, Group Manager – Place and Environment

A moderation meeting was held on 10 June 2021, at which the evaluation panel members reviewed the non-price criteria questions along with the tender responses and individual evaluator's scores, discussed the findings and agreed a moderated final score for each of the non-price criteria questions requiring moderation.

4.36 The final evaluation detail is set out below.

Tenderer	Ranking
APCOA	1st
HSG Facilities Management	2nd

4.37 The tender submitted by APCOA Parking (UK) Ltd demonstrated a good range of social value commitments to be incorporated into the services to be provided under the contract:

- Advertisement of all vacancies through media specific to Walsall Council
- Training of local candidates to meet the requirements of the role
- Purchasing of uniforms through a Walsall based supplier
- Continued support for local charities
- Two site visits per year to schools to discuss education and career opportunities
- Working with the Walsall Council Clean and Green team to support two community initiatives per year

4.38 The tender submitted by APCOA Parking (UK) Ltd was fully compliant, passed the due diligence checks, demonstrated value for money and is recommended to Cabinet for contract award.

Property implications

4.39 The Council House will continue to be the operational base for the contracted enforcement team.

Health and wellbeing implications

4.40 Civil traffic enforcement activity will have positive impacts on health and wellbeing as it will reduce instances of illegal parking that can have adverse impacts on road safety and poor air quality resulting from unnecessary traffic congestion.

Staffing implications

- 4.41 Under the existing contractual arrangements, 1 member of ACPOA's staff has been fully occupied in supporting the delivery of the Council's in house notice processing and appeals service functions. As this element of the work will now be fully undertaken by directly employed Council staff, this is likely to constitute a service provision change under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) in which case the employee of ACPOA mentioned above may have their contract of employment transfer to the Council under the TUPE Regulations.

Reducing Inequalities

- 4.42 There are no direct equality implications arising from this report, therefore an EqlA assessment has not been necessary.

Climate Change

- 4.43 Enforcement of parking, bus lane and moving traffic contraventions will reduce instances of unnecessary traffic congestion and associated air pollution. This will have a positive impact on the delivery of the Council's climate emergency action plan.

Consultation

- 4.44 Consultation will be undertaken between APCOA, the Council and the relevant employee of ACPOA who may be subject to TUPE transfer to the Council.

5. Decide

- 5.1 Cabinet is asked to re confirm its support to a contracted out enforcement operating model and approve the award of contract for civil parking and moving traffic enforcement services to APCOA Parking(UK) Ltd.

6. Respond

- 6.1 Subject to Cabinet approval, the tender process will be concluded to formally award the contract for civil parking and moving traffic enforcement services to APCOA Parking(UK) Ltd.

7. Review

- 7.1 Ongoing review of contract performance will be formally undertaken on a monthly basis between the Council and contractor in line with the provisions of the contract.

- 7.2 The contract allows for an initial 5 year fixed period followed by 2 * 1 year optional extensions. A review of performance, enforcement objectives and ongoing suitability of contracted out enforcement services will be undertaken prior to exercising any of the optional extensions.
- 7.3 It is anticipated that moving traffic contravention powers will be made available to all councils with existing civil parking enforcement powers by December 2021. When these powers are made available, a review of any additional Council approvals that may be required and operational implications will be undertaken.

Background papers

Private session Cabinet report 21 July 2021 Civil Parking and Moving Traffic Enforcement contract.

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Simon Neilson
Executive Director

12 July 2021



Councillor Adrian Andrew
Portfolio Holder – Regeneration

12 July 2021