

	Officer Key Decision
	Report to the Strategic Director Regeneration and Environment
Parking and Traffic Related Debt: Enforcement Agents Contracts Extension	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Two Appendix 1: Ministry of Justice: Taking Control of Goods National Standards Appendix 2: Civil Enforcement Agency: Code of Practice for Enforcement
Background Papers¹:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Gavin F Moore. Head of Parking & Lighting; gavin.f.moore@brent.gov.uk ; Tel (020) 8937 2979

1.0 Purpose of the Report

1.1 This report seeks approval for the Council to extend two contracts for Enforcement Agency Services for the recovery of parking and traffic related debt, for a period of two years in accordance with Contract Standing Order 112.

2.0 Recommendation(s)

That the Strategic Director of Regeneration and Environment:

¹ Officer Key Decision *Authority to Award Contract for Enforcement Agents for the Recovery of Parking and Traffic Related Debts – ... 2018, Strategic Director decision to award.*

2.1 Approves the extension to the current contract for the recovery of parking and traffic related debt with Marston (Holdings) Limited for a period of two years from 1st July 2021 to 30th June 2023.

2.2 Approves the extension to the current contract for the recovery of parking and traffic related debt with Newlyn PLC for a period of two years from 1st July 2021 to 30th June 2023.

3.0 Detail

3.1 The council issues Penalty Charge Notices (PCNs) for a variety of parking and traffic infringements. There are four categories of PCNs:

- CEO-issued PCNs: PCNs fixed to the windscreen of a vehicle or handed to the driver for parking contraventions, served under the provisions of the Traffic Management Act 2004.

- CCTV Parking PCNs: PCNs served by post for parking contraventions, where the contravention has been captured by a CCTV camera, served under the provisions of the Traffic Management Act 2004 and limited by the Deregulation Act 2015.

- CCTV Moving Traffic PCNs: PCNs served by post for moving traffic contraventions (e.g. stopping in a yellow box junction, or turning left or right where the manoeuvre is prohibited), served under the provisions of the Transport for London and London Local Authorities Act 2003.

- CCTV Bus Lane PCNs: PCNs served by post for Bus Lane infringements, served under the provisions of the London Local Authorities Act 1996.

3.2 The relevant statutes prescribe different timescales for increasing Penalty Charges (should prompt payment not be received), for serving subsequent notices, and for permitting challenges, representations and appeals.

3.3 Ultimately, non-payment of a PCN will result in the Council formally registering the PCN as a debt at Northampton County Court (TEC), as a precursor to issuing an Enforcement Agent ('bailiff') with a warrant to collect the outstanding debt on the Council's behalf. In April 2014 the *Taking Control of Goods (Fees) Regulations 2014* were introduced nationally to standardise Enforcement Agent fees and practices.

3.4 Effective debt recovery enhances the credibility of deterrence and forms a vital element of the parking and traffic enforcement process.

3.5 Typically, local authorities recover debt and close about 70% of all PCNs issued. The remainder are either cancelled following an upheld

challenge, representation or appeal; or are deemed unrecoverable if the debtor cannot be traced. Unlike other debts raised by the council, with notices served to properties rather than individuals, the registered keeper of the vehicle is liable for parking and traffic Penalty Charge Notices. This means that the council are reliant upon name and address information provided by the DVLA for the service of the associated statutory notices by post.

- 3.6 Both Marston (Holdings) Limited and Newlyn PLC have performed exceptionally well during the period of their existing contracts in terms of both revenue generation and in their adherence to specification terms held within, most notably in terms of customer service expectations and in their actions with regard to dealings with those classed as vulnerable. There have been only four recorded complaints made to the Council involving the Enforcement Agents since July 2020, which represents a fraction of 1% of the cases passed to them over this period.
- 3.7 The council forecasts income received from Penalty Charge Notices on a yield basis, using data relating to historical receipts to determine a likely recoverable value over an 18 month period. This method has proven to have a high degree of accuracy, but is reliant on the service continuing to follow the current practice of collection. This- includes the issuing of warrants to bailiffs. Given the performance of the current Enforcement Agents, we were able to increase our long-term yield forecast, from £52 per PCN to £54 per PCN, in September 2020.
- 3.8 In the financial year April 2019 to March 2020, our Enforcement Agents, Newlyn and Marston's, recovered £1.258m of registered debt owed for PCNs. This is the highest amount of registered PCN debt ever recovered in Brent in a single year, and would have been even greater had Covid restrictions not come into effect in March 2020. The effect of the pandemic has seen a significant reduction recovered, due to the extensive restrictions placed on Enforcement Agent activity from April to August 2020 and continuing restrictions since then. Nonetheless, current collection rates remain excellent in the circumstances with around £25-30k of debt being recovered each week. Full figures of income for contractual year 2020/2021 are yet to be completed; however, remittances per contract year, up to February 2021, are shown below:

Contract year	Collect	Marston	Newlyn	Enforcement Agent	Key events
	Debt Recovered	Debt Recovered	Debt Recovered	Totals Debt Recovered	
July 17 - June 18	£389,288	n/a	£391,147	£780,435	CSL collecting prior to Marston
July 18 - June 19	£244,329*	£42,352	£227,987	£514,668	Taranto Introduction and system changes
July 19 - June 20	£13,728*	£606,054	£430,063	£1,049,845	
July 20 - February 21	£785*	£360,480	£273,126	£634,391	Pandemic Effect
Totals:	£648,130	£1,008,886	£1,322,323	£2,979,339	

*Cases allocated to Collect, prior to July 2018

- 3.9 The Taranto changes of 2018 changed the back office system used for all stages of notice processing. The changes meant that there was a reduction in cases sent through to Enforcement Agents through the year July 2018 to July 2019 while the system was set up and data transferred, with new processes installed for exporting the data. As a result, there was a significant reduction in collection rates.
- 3.10 Both Enforcement Agent concessionaires have worked in full compliance with *The Taking Control of Goods Standards 2014*, providing clear training to all staff with contract performance monitoring based on this point. Both Marston (Holdings) Limited and Newlyn PLC are signed up to, and practicing within the Civil Enforcement Association (CIVEA) Code of Practice, which provides strict guidelines for operating as Enforcement Agents.
- 3.11 Key Performance Indicators (KPI's) around collection rates are in place and are monitored as part of the contract monitoring with success rates have exceeded expectation over the life of the contract when taking account of the changes to the enforcement systems as well as the effects felt as part of the current pandemic.
- 3.12 Debt recovery and customer service performance by both contractors has been exceptionally high, as set out above. During the procurement exercise in 2018, both Agents scored highly against the Qualitative Criteria, with scores of 83.75% and 87.5%. These scores were well above the nearest comparative tenders. Carrying out a procurement exercise based upon the same pre-requisite scoring criteria is unlikely to result in better responses, and comes with associated time and cost implications. For these reasons it is not recommended that a new procurement exercise is conducted.
- 3.13 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, the Strategic Director Regeneration and Environment is able to extend contracts without the need for Cabinet approval:
- (a) provided that the extension would not be in breach of the Procurement Legislation.
 - (b) provided that the extension does not substantially alter the terms and conditions of the contract.
 - (c) provided that there is sufficient existing budgetary provision.

- (d) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:
 - (i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of six months; or
 - (ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.
- (e) the relevant cabinet member (Lead Member Environment in this case) shall be consulted prior to a decision within (d) (i) or (ii) above and may request that the decision instead be referred to them.

3.14 The Strategic Director Regeneration and Environment has delegated authority to make this decision as:

- (a) The recommended extensions are provided for in the existing contracts and as such they are in accordance with Procurement Legislation.
- (b) The contracts allow for extension under the same terms as originally signed with the relevant clause stating :

The Council may in its sole discretion extend the period in clause B4.1 by up to two (2) years by giving twenty-eight days written notice to the Concessionaire, prior to the end of the Concession Period. The Concession Period and the Contract will thereby be extended on the same terms and conditions save for any variation expressly agreed in writing and signed by the Parties.

- (c) As debts are recovered as part of these contracts, there is no associated cost as part of the service provided by the Enforcement Agent Concessions. Debt recovery by the Enforcement Agents is expected to continue to exceed original budget income expectations, taking account of Covid restrictions.
- (d) The extension is within the period of extension provided for in the contract.
- (e) The Lead Member for Environment has been consulted (see 7.1 below).

4.0 Financial Implications

4.1 Enforcement agents add their own fees, additional to the outstanding debt to the Council. These fees are fixed, so there were no price or cost elements to consider when evaluating original tenders. Instead, the tendering instructions stated that the contract would be awarded based on the quality of service offered by Enforcement Agents in terms of:

- Debt recovered (i.e. income)
- Quality of engagement with vulnerable debtors

5.0 Legal Implications

5.1 Officers recommend the extension of the contracts for Enforcement Agency Services for the Purpose of Parking Enforcement with Marston (Holdings) Limited and Newlyn PLC by two years from 1st July 2021 to 30th June 2023.

5.2 The contracts contains express provision allowing for the extension as recommended and as such, extension is permitted in accordance with the Public Contract Regulation 2015 (PCR 2015).

5.3 The Strategic Director is authorised pursuant to Paragraph 9.5 of Part 3 of the Constitution to extend contracts subject to the conditions set out in paragraph 3.12 above. As set out in paragraph 3.13 above, none of these conditions preclude the Strategic Director agreeing the recommended extensions.

6.0 Equality Implications

6.1 The proposals in this report have been subject to screening and officers believe that there are no significant adverse equality implications. There is no evidence to suggest that the profile of PCN debtors varies from the profile of those incurring PCNs for civil law contraventions of parking and traffic restrictions. In respect of vulnerable debtors, it is considered that the current Enforcement Agents have met the standard of engagement expected.

7.0 Consultation with Members and Stakeholders

7.1 The Lead Member for Environment has confirmed that she supports the recommendations in the report.

8.0 Human Resources/Property Implications (if appropriate)

8.1 This service is currently provided by external contractors, and there are no implications for Council staff arising from extending the contract.

- 8.2 One of the Enforcement Agents contributes an additional £50k p.a. payment towards the cost of an officer in the Parking Notice Processing team. This arrangement will continue for the two years of the contract extension.

Report sign off:

Gavin F. Moore
Head of Parking and Lighting