



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for City Management and Air Quality
Date:	2 November 2022
Classification:	General Release
Title:	Extension of Parking Services Debt Management contract with Marston Holdings Limited
Wards Affected:	All
Key Decision:	The Cabinet Member Decision is key due to impact to all wards.
Financial Summary:	<p>The contract will be at zero cost to the Council but the contractor may generate up to £5.15m in total from post warrant recovery (based on 2018-21 levels) over the extension period via statutory fees claimed on debt/warrant activity.</p> <p>This contract will support the collection of Parking Penalty Charge Notice (PCN) debt, which directly contributes to the achievement of the Council's agreed medium term financial plan.</p>
Report of:	Amy Jones, Director of Environment

1. Executive Summary

- 1.1 This report sets out the rationale for awarding a contract extension to Marston for the provision of Parking Debt Management. The contract was originally let in 2017 for five years with the provision to extend for up to four years. The proposal is to utilise the full extension provision which is planned to commence on the 1st of November 2022 for a period of four years.
- 1.2 This contract provides the service for post warrant enforcement and also includes a number of other recovery services for parking. These include pre-County Court registration recovery, debtor tracing and address validation, expired warrant recovery and also foreign and Scottish debt recovery.
- 1.3 The full four years extension provision is being utilized in recognition of the additional functions being offered by Marston as part of the extension arrangement. This position has been negotiated with them noting that they have introduced a competitor to support the recovery of Westminster post warrant parking debt.
- 1.4 The service is provided at no cost to the council, there is a statutory fee structure that applies to post warrant enforcement action which is the single source of income for the provider through the contract, these fees are payable to the provider by the debtor from any post warrant recovery activity undertaken.

2. Recommendations

- 2.1 That, following endorsement by the Commercial Gateway Review Board and the Director of Environment, the Cabinet Member for City Management and Air Quality approves the four-year contract extension of the Parking Services Debt Management Contract to Marston (Holdings) Limited (Company No. 04305487). The contract will be at zero cost to the Council, but the contractor may generate up to £5.15m from statutory fees applied through post warrant recovery over the extension period.

3. Reasons for Decision

- 3.1 The proposed extension of the contracts by four years is due to the resilience and good performance that Marston has demonstrated, especially considering the impact that Covid-19 has had on the service and the industry, as well as the additional functions being offered. There is no risk as the contract is non-exclusive, so the council still has the ability to procure additional partners if the performance of the incumbent does not meet expectations.
- 3.2 The current supplier is biggest single debt collection agency in this field with more than 26% of total registered UK bailiffs, with the next nearest competitor with only

9%. Expectations and associated KPIs are regularly reviewed and benchmarked. The Council have negotiated significant service add-ons that make extension attractive. The extension comes at zero cost to the Council and there are no concerns that excessive incomes can be generated by the supplier as the fee structure they apply is set by law.

4. **Background**

4.1 Service Background

- 4.1.1 All Local Authorities have powers under the Traffic Management Act 2004 (TMA) and the London Local Authorities and Transport for London Act 2003 to recover outstanding debt in relation to Penalty Charge Notices (PCNs) issued to vehicles parked in contravention or observed to be committing a moving traffic contravention.
- 4.1.2 The prescribed statutory process allows an unpaid PCN to be issued with a charge certificate after sixty days (thirty for PCNs issued by post) and then, if the PCN is not resolved, escalated for registration of the debt with the Traffic Enforcement Centre (TEC), at Northampton County Court, which is ultimately collectable by a Certificated Enforcement Agent (CEA) following the issue of a warrant.
- 4.1.3 Since 2006 Westminster Parking Services has required the Parking Debt Management Contract to deliver additional services beyond traditional post warrant enforcement. These services, provided at no cost to the Council, are aimed at improving recovery and reducing the amount of debt that is written off as uncollectable. There is also a focus on reducing the extent to which cases unnecessarily progress through to debt registration, for which the Council is charged a fee, and also to reduce the extent to which post warrant enforcement activity occurs. This approach allows us to secure early resolution of the debt, or engagement with the debtor, saving the expense of registering unnecessary debts and reducing the extent to which post warrant recovery occurs. These additional services do not provide Marston with any income.
- 4.1.4 Therefore, the contract utilises many of the functions the contractor already has in place to secure debt outside of the warrant lifespan, where the employment of Certificated Enforcement Agents (CEAs) to recover outstanding debt from the authority offered by a warrant is the principal function of contractors within this industry. Consequently, tracing functionality supports attempts to locate and contact drivers through the issue of letters, e-mails and phone calls outside of the warrant lifespan in order to find a resolution without the need for CEAs to attend premises to enforce.

4.2 Contract Performance

- 4.2.1 Contractual performance is measured around 2 primary Key Performance Indicators (KPIs) for pre-TEC registration and for post warrant recovery. The Pre-TEC recovery KPI requires meeting a 2.8% recovery level at the Charge Certificate stage of the PCN lifecycle, where overall recovery across all stages of the process is approximately 71% of PCNs issued. Post warrant recovery requires the supplier to meet a 20% recovery level from warrants referred in a month.
- 4.2.2 Marston have consistently delivered above the 2.8% baseline for pre-debt recovery. The 2.8% target has been consistently met, exceeding with an average of 3.33% since the start of the contract, peaking at 4.2%. This had netted the Council approximately £1.14m in additional income over the 2.8% KPI target.
- 4.2.3 Post warrant recovery is the principal function of the contract and is the only stage at which the provider earns. To date approximately £5.5m (up to Aug 22) has been recovered since the contract started. The 20% KPI is high when compared to other boroughs, especially when considering the additional recovery at pre-TEC stage that Marston provide. This target has been consistently met since Marston started recovery for WCC, although more recently there has been greater challenges here because of the impacts arising upon Marston and the industry more broadly from Covid-19.
- 4.2.4 Statutory fees that have been recovered post warrant, as well as the corresponding warrant fees to the City Council are set out in the table below against the warrant volumes. Warrant volumes will vary proportionately with the volume of PCNs issued. It should be noted that the figure for 2022 has yet to reach a complete year and that recovery is still on-going for 2021.

	2018	2019	2020	2021	2022
Westminster Income	1,493,486	1,198,837	1,076,495	1,051,756	690,064
Supplier Turnover	1,623,006	1,323,761	1,083,814	1,123,659	689,477
Incoming Warrant Volume	38,033	37,469	35,693	38,245	30,287

- 4.2.5 The current contract delivers a number of additional services that sit outside of the traditional post warrant enforcement contract that support parking debt resolution. In addition to the traditional post warrant recovery, the current contract has been refined to include: pre-TEC registration recovery, debtor tracing and address validation, post warrant recovery, expired warrant recovery, foreign debt recovery, Scottish debt recovery, persistent evader enforcement and up to April 2023 abandoned vehicle removal.

4.3 Covid Impact

- 4.3.1 The impact on the service from measures introduced following the Covid-19 pandemic have been significant, particularly from the point of view of post warrant recovery. Following the first lockdown period in March 2020 warrant issue stopped and didn't restart again until the following September. Despite this, full enforcement powers were still not re-introduced until the following summer because of the need to maintain social distancing measures. Therefore, recovery stopped entirely initially and then could only be partially implemented, which meant that enforcement action was hampered for nearly 18 months.
- 4.3.2 As a result of Covid-19 measures, the number of Enforcement Agents certificated by the Ministry of Justice fell by 50%, as people left the industry because they couldn't earn, and this was also the case with Marston, who were, and remain, the largest employer of EAs in the UK.
- 4.3.3 In addition to the drop in resource, recovery rates were also impacted by case age, a significant factor in successfully resolving outstanding debt, as well as warrant lifespan on those cases already issued when lockdown was introduced.

4.4 Ethical Recovery

- 4.4.1 Recognition of debtor vulnerability was introduced to the regulations that govern post warrant enforcement with the introduction of the Tribunals, Courts and Enforcement Act 2008, in 2014. In any event, the industry as a whole has worked towards introducing measures that are considerate of debtor vulnerability and an ethical approach to debt recovery is something that the City Council has required as part of this service for a number of years.
- 4.4.2 Marston have invested significantly in this area with dedicated welfare support, hardship and vulnerability teams who undergo specific training, developed with the support of the Money Advice Trust, the Samaritans and the Royal College of Psychiatrists, in order to support where debtors may be financially struggling or considered vulnerable. This can include a referral to local and national debt advice organisations, ensuring that customers are fast-tracked for appropriate support where necessary, as well as procedures to provide adaptable support towards resolution.
- 4.4.3 Although the contract has evolved over the years, it remains structured around early engagement with debtors prior to the issue of a warrant. Through the contract with Marston additional steps are taken, following the issue of the Charge Certificate, to validate the data we have on file and also to send additional letters to drivers alerting them to the outstanding debt. These letters, approved by the adjudication service, alert drivers to the debt in order to prevent unnecessary progression. Where new addresses are identified, cases are reverted to allow

drivers the opportunity to either engage the statutory appeals process or pay at the lower rate.

- 4.4.4 The Breathing Space Scheme, under the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020, gives legal protections from creditor action, including pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts. This is supplementary to the vulnerability protections within the existing recovery legislation and fully supported by Marston.
- 4.4.5 The Labour Party Manifesto commits to following Hammersmith and Fulham's ethical approach to debt collection to reduce and to phase out the use of bailiffs in the collection of council tax debt. This is an approach that has been implemented already in Westminster for parking debt in that the significant point at which debt is recovered through the contract is prior to it being registered at the County Court. Consequently, recovery averages approximately 3.5% of overall PCN recovery as opposed to an average of 2.1% at warrant stage. Approximately 2% of that pre-County Court recovery can be attributed to the Marston pre County Court recovery process and this would otherwise escalate through to the issue of a warrant and a much greater level of bailiff activity. Hammersmith and Fulham, who also contract Marston for parking debt recovery, do not utilise this function within their contract.

4.5 Extension Proposal

- 4.5.1 The extension proposal submitted by Marston offers a commercially attractive option to the City Council as it ensures the UK's biggest operator, despite the industry impacts from Covid, is still delivering for Westminster. As the vast majority of debt emanating from PCN issue is located outside of the City, noting that approximately 600,000 vehicles drive in each day, a large resource capable of recovery anywhere in the country is essential.
- 4.5.2 As part of Marston's commitment to Westminster they have agreed to sub-contact a third-party debt recovery agency to support recovery during the lifespan of the warrant. Marston will manage the relationship and warrant batches that do not reach a 20% recovery level at the end of month 9, of the 12 month lifecycle, will transfer to the new sub-contractor. Marston will arrange one year Service Level Agreements (SLAs) with them, with the option of introducing new operators at the end of the SLA if performance levels require it.
- 4.5.3 This contractual addition will provide a number of benefits to Westminster:
- This will allow the City Council to test the market and look at alternative recovery approaches at the end of the warrant lifecycle.
 - This will also provide a measure from which we can look at Marston performance and will provide important intelligence to determine the future shape of the service.

- This will provide the possibility of additional income, as Marston will be striving for 20% at the end of month 9 to retain all cases in the batch and the new operator will be keen to demonstrate their ability to positively impact recovery.
 - Marston will manage the provider which means that there will be no set up costs to introduce them, or replace them, and no resource implications to manage them.
- 4.5.4 Trace Enforcement Group Limited have been proposed by Marston for the first year of the contract extension. Trace specialise in the recovery of outstanding debt to those that are difficult to locate. They use various approaches to test the accuracy of data held on file in order identify the location of debtors. Trace are relatively new to the parking market, although have a background in other categories of outstanding debt recovery, so we anticipate that they will be keen to deliver to a high standard to demonstrate their value.
- 4.5.6 Foreign debt recovery was originally a stand-alone contract, although it has now formed part of the last two Parking Service Debt Management Contracts, with all costs for the provision of the service absorbed by Marston. Since 2018 nearly 70,000 cases have been referred with over £180K recovered. However, through the extension we will introduce a new operator, Parktrade, to work alongside European Parking Collections (EPC) in order to provide a more competitive approach to foreign debt recovery. EPC have monopolised this market in parking and we hope to see improved performance through the competition Parktrade's introduction will offer.
- 4.5.7 Marston have, in addition to existing social value commitments, proposed a number of additional commitments as part of the extension. As well as on-going volunteering proposals for community projects, Marston propose adopting a responsible purchasing strategy and extensive recycling programme, Welfare support and safeguarding measures for those with vulnerability identified in the City, on-going support for Westminster's Age UK Christmas hamper deliveries, Marston staff volunteering with local befriending schemes and their staff also volunteering as local Air Marshalls to support Westminster's anti-idling campaign.
- 4.5.8 Marston have also pledged to transition their fleet of 11 ANPR vehicles that operate in the City, to all be electrically powered by Dec 2023. Electric Vehicle (EV) transition remains a concern for operators as conversion represents a high expense, amplified by soaring energy prices, and is an unknown to many. While logistically it might be preferable for Marston to continue using Internal Combustion Engine (ICE) vehicles, they have made this commitment to support our carbon neutrality targets. The City Council has pledged to support their transition and the insights obtained from this will provide us with valuable intelligence and insight to support fleet transition more broadly within the Council as well as providing us with a broader understanding of the challenges and concerns of those considering fleet transition.

5. Financial Implications

5.1 Budget/funding arrangements

- 5.1.1 Parking Services have an income budget of £20.991m in respect of Penalty Charge Issues, and collection of debt is imperative to achieving this. The table in paragraph 4.2.4 shows that the contract has collected approximately £1.1m PCN debt in each of the last two financial years.
- 5.1.2 There is no expenditure budget in relation to debt collection as WCC make no payment to Marston, with their fees being set and collected in line with statute.
- 5.1.3 There are no inflationary impacts to the council from this contract. Any increases to the statutory fees that the provider can collect through the warrant process will be recovered from the debtor as now.

5.2 Risks and Opportunities

- 5.3.1 Although other Councils have multiple debt agencies this is no guarantee of additional returns so the Councils proposed model is seen as the most suitable for delivery based on Westminster's needs. Payment of any fees to the supplier again does not guarantee any improvement on performance and if anything, a zero contract sum encourages better behaviour and improved recovery from the supplier as statutory fees become their only source of income.
- 5.3.2 The contract is non-exclusive which offers mitigation to any future concerns over value for money or performance
- 5.3.3 The impact from Covid-19 has substantially affected debt enforcement, with a high amount of EAs leaving the industry in the last two years. While this has hit all recovery operators, Marston despite losing 50% of their total EAs during lockdown, have maintained their majority of nationwide coverage, far beyond the competitors in the field.
- 5.3.4 Sharp increases in cost of living are affecting more debtors, resulting in higher numbers of vulnerable persons and a subsequent difficulty in ability to recover given higher rates of personal debt.

6. Legal Implications

- 6.1 The recommendation under this report is to extend an existing contract between Westminster City Council and Marston Group Ltd. That contract is dated the 1st November 2017 and was procured in accordance with the provisions of Concession Contracts Regulation 2016 (CCR 2016). The contract was for an

initial term of 5 years commencing on the 1st November 2017 and expiring on the 31st October 2022. The contract provides an option to extend the initial term by a further period(s) of up to 4 years.

- 6.2 Regulation 43 CCR 2016 provides for modification of concession contracts during their term. The proposal to extend the contract is therefore lawful as it has been provided for within the contract documents. The report sets out the value for money assessment that has been undertaken and that this is a key decision thereby requiring cabinet member approval.
- 6.3 Legal comments supplied by Andrew Ogalo Senior Solicitor 26/09/2022

7. Carbon Impact

- 7.1 The impact is constrained to the 11 ANPR vehicles utilized by field operatives under the contract that operate in Westminster. Marston have committed though, under the extension, to the conversion of all 11 ANPR vehicles to be full EV by December 2023

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

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BACKGROUND PAPERS

Commercial Gateway Review Board Report



Gate 3 Award -
Debt Recovery Conti

APPENDICES

Appendix A: Other Implications

For completion by the **Cabinet Member for City Management and Air Quality**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed:  Date: 02/11/2022

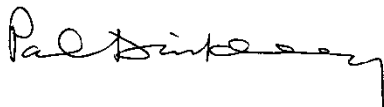
NAME: **Paul Dimoldenberg**

State nature of interest if any

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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled
.....and reject any alternative options which are referred to but not recommended.

Signed



Cabinet Member for City Management and Air Quality

Date02/11/2022.....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:
.....
.....

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Head of Legal and Democratic Services, Strategic Director Finance and Performance and, if there are

resources implications, the Strategic Director of Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

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