

## **Waivers – When do we use them and why**

The use of the waiver function is an important facility that, when used appropriately, allows the council to achieve best value and efficiencies from its Contract Standing Orders and therefore supports achieving value for money through procurement processes

Under CSOs 20.3 & 20.4, Directors have delegated powers to waive CSOs in relation to contracts with an estimated contract value of less than £75,000 and over £75,000 following consultation with the chair of the relevant committee and the Head of Procurement.

The Procurement Team continually promotes best procurement practice across the council and utilises various innovative approaches which are allowed for within CSOs and without the need for a waiver e.g. the increasing the use of consortium contracts and frameworks. The authority currently has £90M of annual spend procured through collaborative arrangements. As part of this process it is sometimes necessary to provide for short term extension to existing contracts, which allow alignment to joint procurements.

The introduction of a Procurement pipeline in 2014/15 provided advanced insight in to the needs of service areas throughout the authority. The aim of this pipeline is to provide early intervention from Procurement, Legal and Finance with the ultimate aim of significantly reducing the need to authorise Waivers. This pipeline has had a number of outcomes within the authority.

Primarily it has served to improve the level of compliance to Contract Standing Orders but in addition it has created an exponential increase in the level of procurement activity as spend data has identified areas of non-compliance and forced services to prioritise capacity to procure services.

Additionally it is often the case that national and local policy and financial changes require alternative action to be taken. The modernisation of Social Care, Public Health services and Family Childrens & Learning has necessitated service reviews, re-designs and re-commissioning, necessitating waivers to extend current service contracts to allow these processes, including appropriate consultation, to take place. It should be noted that H&ASC and FCL account for approximately 60% by number and value of the total requests.

Occasionally an emergency will dictate the need for a waiver an example of this relates to storm damage to the roof of King Alfred Leisure Centre (CP139). The damage led to the closure of the leisure centre on Health and Safety grounds. The cost to repair was estimated in excess of £75, 000. Under Procurement regulations this would have required a minimum of four tenders and the process would have taken approximately three months before award could be made. Following discussions with the Executive Director, Lead Member, Legal and Finance a Waiver was raised to approve urgent repair work.

There are a number of Waivers raised for specialist services or staff, where the market may be extremely restricted and as such a Waiver process is deemed to be the most effective and efficient method of award. An example of this is the Coordination and delivery of a winter wellbeing programme (CP230) delivered by The Citizens Advice Bureau. Due to the late notification of funding and the fact the CAB were the national lead partner for the ‘warmth for wellbeing partnership’ a direct award was made.

Each Waiver is populated with reason codes which allow us to perform statistical analysis of requests. These are;-

1. Insufficient Tenders / Did not accept lowest bid
2. Award with no tender process – Consultant
3. Award with no tender process – Contractor
4. Award with no tender process – Supplier
5. Specialist
6. Urgent award – Consultant
7. Urgent award – Contractor
8. Urgent award – Supplier
9. Other

A stringent process of approvals is required for a Waiver request to be accepted (especially in excess of £75K). The description / business case will include a confirmation that value for money has been considered, and an explanation of how the waiver provides best value. It will also explain how the waiver contract sum has been calculated, and break down contract values for each supplier covered by the waiver.

Proposed savings through using a waiver should be included, this will be on the basis that as no Procurement process is undertaken a provider should pass on any financial benefit in the contract value

A Social Value and Community Wealth Building statement is required requiring the requestor to demonstrate how this can be achieved. While this may not always be relevant it will ensure consideration is given.

The requestor will consult with the relevant Procurement Business Partner who will provide the Procurement implications.

Financial and Legal implications will be completed by the relevant officers. Once this is complete the Executive Director for the relevant service will consult with the Lead Member prior to authorising. Only when this entire process is complete will the Head of Procurement authorise award of contract.