

<b>Subject:</b>	<b>Waivers of Contract Standing Orders</b>		
<b>Date of Meeting:</b>	<b>11 July 2014</b>		
<b>Report of:</b>	<b>Executive Director Finance &amp; Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Cliff Youngman</b>	<b>Tel:</b> 291408
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The council's Contract Standing Orders (CSOs) require an annual report to be presented to Policy & Resources Committee for information, setting out all waivers authorised under CSO 18.2, 18.3 and 18.4. This report relates to the financial year 2013/14.

**2. RECOMMENDATIONS:**

- 2.1 That Policy & Resources Committee notes the number and value of waivers authorised under Contract Standing Orders 18.2, 18.3 and 18.4 during the financial year 2013/2014.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 Under CSO 18, 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 Procurement Strategy Manager.
- 3.2 CSO 18.7 states that a register of all waivers will be maintained by Property & Design and kept available for inspection by the public with reasonable notice during working hours.
- 3.3 For the financial year 2013/14 Waivers have been collated in the council's five directorates: Finances & Resources, Adult Services, Children's Services, Public Health, and Environment, Development & Housing. No waivers were received from ACE or Legal.
- 3.4 Statistical analysis of waivers in the financial years 2012/13 and 2013/14 is included at Appendix A and B of this report.
- 3.5 A summary of the number and value of waivers under and over £75,000 for years 2011/12, 2012/13 and 2013/14 is shown in Table 1 below. The table shows an overall increase in the number of waivers from the last financial year, but an overall decrease of £100,000 in the total value waived.

- 3.6 The increase in the number of waivers reflects an increasing awareness of CSOs (for example that a contract cannot be extended past its final date without a waiver). This continues to be an area for improvement and forms part of the VFM Phase 4 programme on Third Party Spend.
- 3.7 The value of the waivers includes two large (£534,000) waivers for Temporary Accommodation contracts prior to the complex procurement of a Temporary Accommodation framework due to be awarded in August 2014.
- 3.8 The six largest waivers (value £1.6 million) are all either extensions of contracts prior to a procurement (four), or negotiation with the only viable provider to obtain best value for money (two).

<b>Table 1</b>						
	<b>Number of Waivers</b>			<b>Value of Waivers</b>		
<b>Year</b>	<u>2011/12</u>	<u>2012/13</u>	<u>2013/14</u>	<u>2011/12</u> <u>£ million</u>	<u>2012/13</u> <u>£ million</u>	<u>2013/14</u> <u>£ million</u>
<b>Under £75,000</b>	19	15	13	0.8	0.5	0.6
<b>Over £75,000</b>	6	2	11	5.3	2.4	2.2
<b>Total</b>	25	17	24	6.1	2.9	2.8

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 Not applicable to this report.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The Assistant Director Property & Design, and the Assistant Director Finance have been consulted over the contents of this report.

#### **6. CONCLUSION**

- 6.1 All waiver requests are subject to significant scrutiny and are required to evidence that Value for Money is demonstrated and that there is no alternative to competitive tender. The waiver process has been tightened in the last twelve months resulting in a number of waivers being initially rejected until receipt of appropriate evidence and satisfactory business cases for direct award. In response to Internal Audit recommendations and as reflected in the council's Annual Governance Statement, the entire process will undergo further scrutiny with the aim of further reducing the number and value of waivers from the current level and improving the robustness of and compliance with the process.
- 6.2 The continuing downward trend reflects continued efforts to increase awareness of CSOs and the need to demonstrate value for money against other options and shows the growing impact of category management procurement and commissioning approaches, including the move to greater use of partnership working and collaborative procurements.

- 6.3 The Corporate Procurement service continues to increase the knowledge of procurement practices and are utilising various innovative approaches to procurement, which are allowed for within CSOs without the need for a waiver e.g. the increase in the use of consortium contracts and frameworks plus greater collaboration with councils across the region.
- 6.4 The Corporate Procurement service also continues to promote good practice in contract governance across the council while also actively investigating and targeting areas for improvement.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The use of the waiver function, supported with appropriate evidence, allows the council to achieve best value and efficiencies from its Contract Standing Orders and therefore supports achieving value for money through procurement processes. It should be noted that any direct financial implications for individual waivers are provided and reported accordingly to support each waiver decision made over the past two financial years.

*Finance Officer Consulted: James Hengeveld*

*Date: 13/06/14*

### Legal Implications:

- 7.2 Individual waiver reports in relation to proposed waivers above £75,000 include legal implications for consideration by the Director minded to grant the waiver, prior to his/her consultation with the Chair of the relevant committee and the Procurement Strategy Manager.

*Lawyer Consulted: Oliver Dixon*

*Date: 17/06/14*

### Equalities Implications:

- 7.3 There are no direct equalities implications in this report; it should be noted that full equalities implications would be required within each report supporting a waiver decision in respect of a contract estimated to be over £75,000.

### Sustainability Implications:

- 7.4 There are no direct implications in this report and it should be noted that full sustainability implications would be required within each report supporting a waiver decision in respect of a contract estimated to be over £75,000.

### Any Other Significant Implications:

- 7.5 The use of the waiver function allows the council to mitigate potential risk of fraud and deception within the procurement process. It also allows the Corporate Procurement team to analyse trends regarding directorate procurement practices and address any issues which may arise.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Appendix A - Analysis by Reason and Key Area - for Period 1/4/12 to 31/3/13
2. Appendix B - Analysis by Reason and Directorate - for Period 1/4/13 to 31/3/14

### **Documents in Members' Rooms**

1. None

### **Background Documents**

1. None