

<b>Subject:</b>	<b>Waivers of Contract Standing Orders</b>		
<b>Date of Meeting:</b>	<b>11<sup>th</sup> July 2013</b>		
<b>Report of:</b>	<b>Executive Director of Finance and Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Claire Hutchinson</b>	<b>Tel:</b> 290795
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Contract Standing Orders (CSOs) require an annual report to be presented to Policy and Resources Committee, setting out all waivers authorised under CSO 18.2, 18.3 and 18.4. This particular report relates to financial years 2011/12 and 2012/13, and enables the Committee to have an overview of the level of waivers granted and the reasons for them and to consider whether any further action might be needed to ensure waivers are used appropriately.

**2. RECOMMENDATIONS:**

- 2.1 That Policy and Resources Committee notes the number of waivers authorised under Contract Standing Orders 18.2, 18.3 and 18.4 during financial years 2011/12 and 2012/13.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS**

- 3.1 Under CSO 18, Directors have delegated powers to waive CSOs in certain circumstances for contracts with an estimated contract value of less than £75,000 and, in the case of contracts over £75,000, to do so following consultation with the chair of the relevant Committee and the Procurement Strategy Manager.
- 3.2 A register of all waivers is maintained by Property & Design and kept available for public inspection.
- 3.3 For the financial years 2011/12 and 2012/13 waivers have been collated and analysed based on the former organisational structure covering – Communities, Finance, People, Place and Resources. They will from now on be collated and analysed under the new structure.

- 3.4 The statistical analysis of the waivers granted in the financial years 2011/12 and 2012/13 is included within Appendix 2 and 3 to this report. The statistical analysis of the waivers in the financial year 2010/11 is included within Appendix 1 to this report to enable any trends to be identified. The report for the financial year 2010/11 was approved at Cabinet on the 13<sup>th</sup> October 2011.
- 3.5 A summary of the number and value of waivers under and over £75,000 for years 2010/11, 2011/12 and 2012/13 is shown in table 1 below. The table shows an overall reduction of the number of waivers during the three year period. However, a significant increase in value is seen in 2011/12.
- 3.6 The reduction in the number of waivers emphasises an increased awareness of contract standing orders by contract officers which can in part be attributed to the increasing profile of the Corporate Procurement team. Initiatives within the team and the wider Value for Money programme in, particular the implementation of the Category Management Structure, have contributed. These actions have all helped to reduce the number of waivers and this reduction will have improved the value for money obtained by the council through greater competition. Whilst there will always be circumstances in which the use of a waiver is appropriate or necessary, the controls are designed to ensure that this is properly monitored.
- 3.7 There was a significant increase in value of waivers in the financial year 2011/12 because of a change of approach to Adult Social Care contracts. A major recommissioning exercise was undertaken through the Commissioning Grants Prospectus. This was a very positive new approach to procurement but in order for it to be effective a number of smaller contract extensions were required through the waiver process in order to align contract end dates. The total value of this waiver was £4,021,546.83.
- 3.8 In the financial year 2012/13 there was a noticeably high value of waivers under the “other” category reason. This is due to the value of a waiver for two supported living services for people with learning disabilities within Adult Social Care. The waiver was sought to enable the current service provision to be extended to come in line with the new supported living strategy expected in 2014. The total value of this waiver was £2,100,000.

<b>Year</b>	<b>Number of Waivers</b>			<b>Value of Waivers</b>		
	<u>2010/11</u>	<u>2011/12</u>	<u>2012/13</u>	<u>2010/11</u> <u>£ million</u>	<u>2011/12</u> <u>£ million</u>	<u>2012/13</u> <u>£ million</u>
<b>Under £75,000</b>	24	19	15	1.0	0.8	0.5
<b>Over £75,000</b>	5	6	2	1.0	5.3	2.4
<b>Total</b>	29	25	17	2.0	6.1	2.9

- 3.9 The level of waiver activity over the preceding two years is considered to be reasonable given the complexity and scale of the council’s procurement activity and no further changes are recommended to our approach.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 The Head of Property and Design, and the Head of Strategic Finance & Procurement have been consulted over the contents of this report.

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

##### Financial Implications:

- 5.1 The use of the waiver function allows the council to achieve best value and efficiencies on its contract standing orders and therefore supports achieving value for money through the procurement process. It should be noted that any direct financial implications for individual waivers would be required and reported accordingly to support each of the waivers over the past two financial years.

*Finance Officer Consulted: Rob Allen Date: 13/06/13*

##### Legal Implications:

- 5.2 Corporate Procurement is one of the 'miscellaneous service functions' delegated to Policy & Resources Committee.

More specifically, it is an express requirement under Contract Standing Order 18.5 for a report to be submitted annually to the Committee with a digest of CSO waivers granted over the previous financial year.

*Lawyer Consulted: Oliver Dixon Date: 13/06/13*

##### Equalities Implications:

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

##### Sustainability Implications:

- 5.4 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 in respect of a contract estimated to be over £75,000.

##### Crime & Disorder Implications:

- 5.5 There are no direct implications in this report.

##### Risk and Opportunity Management Implications:

- 5.6 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.

Public Health Implications:

- 5.7 There are no direct implications in this report.

Corporate / Citywide Implications:

- 5.8 These are included in section 7 below.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 Not applicable to this report.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 The analysis does not suggest any failure to comply with CSOs. The decrease in the numbers of waivers is consistent with greater knowledge of the Council's processes.
- 7.2 Overall the report demonstrates the increasing awareness and achievement of value for money and reflects the changing nature of procurement, including the move to greater use of partnership working and collaboration.
- 7.3 Corporate Procurement continues to increase the awareness of procurement practices with council officers seeking advice about tendering and are utilising various 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 neighbouring councils.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Appendix 1 - Analysis by Reason and Key Area - For Period 1/4/10 to 31/3/11
2. Appendix 2 - Analysis by Reason and Key Area - For Period 1/4/11 to 31/3/12
3. Appendix 3 - Analysis by Reason and Key Area - For Period 1/4/12 to 31/3/13

**Documents in Members' Rooms**

1. None

**Background Documents**

1. Files and records held within Property Services and Corporate Procurement.