

Subject:	Waivers of Contract Standing Orders		
Date of Meeting:	1 December 2022		
Report of:	Executive Director Governance, People & Resources		
Contact Officer:	Name:	Cliff Youngman	Tel: 07701396941
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The Contract Standing Orders (CSOs), CSO 20.5, require a report to be presented to Policy & Resources Committee annually setting out all waivers authorised under CSOs 20.2, 20.3 and 20.4.
- 1.2 This report meets this requirement and relates to the financial year 2021/22.

2. RECOMMENDATIONS:

- 1.2 That Policy & Resources Committee notes the number and value of waivers authorised under Contract Standing Orders during the financial year 2021/22.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Under CSOs 20.2 and 20.3, 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 Statistical analysis of waivers in the financial year 2021/22 is included at Appendix A and B of this report and provides an analysis by 'Reason' and by Directorate.
- 3.3 A summary of the number and value of waivers under and over £75,000 for 2021/22 is shown in Table 1 below.

	Number of Waivers	Value of Waivers
Under £75,000	14	£565,677
Over £75,000	8	£3,645,606
Total	22	£4,211,283

- 3.4 This shows a significant reduction from 2020/21 where 51 waivers with a total value of £15,797,863 were raised. This highlights a return to closer to pre-pandemic levels by volume. For comparison the number and value of waivers were 17 and £1.2m in 2019/20, 41 & £8.8m in 2018/19, and 60 and £12.8m in 2017/18.
- 3.5 Waiver CP393 (see Appendices A and B) relates to the distribution of a number of Covid and winter support vouchers for people. The actual cost to BHCC was zero as these were funded by government Covid funds (Household Support Fund), and as such for the purpose of this report the value of £2,250,000 should ideally be disregarded from the overall value of £4,211,283.
- 3.6 Similarly, waiver CP383 (£400,000) also related to the government requirement for the urgent recruitment of temporary Covid marshals and was funded from Covid Contain Outbreak Management Funding (COMF).
- 3.7 The balance of 18 waivers valued at £1.56 million compares to pre-pandemic business-as-usual values.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Each waiver decision is taken on its merits taking into account value for money implications, service delivery, business continuity impacts and other critical factors.
- 4.2 The Waiver process is periodically audited to provide additional assurance over the process and ensure continuous improvement.
- 4.3 Appendix C explains in more detail how waivers can provide the council with a valuable alternative to re-procurement or re-tendering and can contribute to improved value for money.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The Chief Finance Officer has been consulted over the contents of this report.

6. CONCLUSION

- 6.1 The Procurement team, working in partnership with service areas, actively maintains a Forward Plan for three to five years which enables early consideration of procurement options and eliminates some of the need for extensions.
- 6.2 The Corporate Procurement service continues to promote good procurement practice across the council and are utilising various innovative approaches which are allowed for within CSOs without the need for a waiver e.g. the increase in the use of consortium contracts and frameworks.
- 6.3 The Corporate Procurement service also continues to promote good practice in contract governance across the council while also actively investigating and working with services areas to achieve improvement.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The use of the waiver function in certain circumstances 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. Waivers are also reported to the Member Procurement Advisory Board for review and the members of the group are able to raise concerns or refer matters in accordance with the terms of reference of the board and their advisory capacity.

Finance Officer Consulted: Nigel Manvell

Date: 20/10/22

Legal Implications:

- 7.2 Legal implications are included in reports relating to waivers over £75,000.

Lawyer Consulted: Alice Rowland

Date: 23/10/22

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. This includes demonstrating compliance with the council's Environmentally Sustainable Procurement Policy.

Risk and Opportunity Management 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.

Public Health Implications:

- 7.6 There are no direct implications in this report.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A - Analysis by Reason - for Period 01/04/21 to 31/03/22
2. Appendix B - Analysis by Directorate - for Period 01/04/21 to 31/03/22
3. Appendix C – Explanation of the waiver process.

