

Subject:	Waivers of Contract Standing Orders - Annual Report		
Date of Meeting:	16th October 2008		
Report of:	Director of Finance & Resources		
Contact Officer:	Name:	Claire Jones	Tel: 291408
	E-mail:	claire.t.jones@brighton-hove.gov.uk	
Key Decision:	No		
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Contract Standing Orders (CSOs) requires an annual report to be presented to the Cabinet, setting out all waivers authorised under CSO 18.2 & 18.3 covering the previous financial year. This report relates to financial year 2007/08 and associated CSOs.

2. RECOMMENDATIONS:

- 2.1 That Cabinet note the trends and statistics drawn from the information in Appendices A & B of the report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Prior to the changes to CSOs in May 2008, Under CSO 18, Chief Officers have delegated powers to waive CSOs in relation to contracts with an estimated contract value of less than £50,000 and over £50,000 following consultation with the Chair of the relevant Executive Committee and the Head of Procurement. In both cases the Heads of Internal Audit & Procurement have to be notified as soon as possible and in the latter case a formal report has to be compiled to include legal and financial comments and any future commitment that the contract may entail. CSO 18.6 states that a register of all waivers will be jointly maintained by Corporate Procurement and Property & Design and kept available for inspection by Councillors or members of the public during working hours.
- 3.2 After the introduction of the new Constitution in May 2008, the threshold has been changed to £75,000. All waivers in excess of £75,000 require consultation with the relevant cabinet member and the Procurement Strategy Manager

3.3 The statistical analysis of the waivers is included within Appendix A to this report. It can be seen that in 2007/08, 67 waivers were recorded to the value of £3,052,356. The number of waivers received has decreased by 16 or 19% compared to 2006/07 and a decrease in value of £1,612,919 or 35%. The summary of the waivers for financial years 04/05, 05/06, 06/07 and 07/08 in Appendix B of this report demonstrates that the reduction is concentrated in areas where contracts were awarded in previous years following negotiation mainly on the grounds of urgency or specialist works. Another reason is where contracts negotiated on an annual basis have been re-let for a longer-term, therefore, reducing the need for an annual waiver.

3.4 The analysis demonstrates that most waivers are for contracts under £50,000, representing 79.1% of all waivers recorded to a value of £922,239. The number of waivers represents an increase of 2% on last year although the value of these has decreased by approximately £160,462. The remaining 20.9% of waivers are for contracts over £50,000 representing £2,130,117 of the grand total. This is a 40.5% decrease from last year that represents £1,452,457 decreased spend. It demonstrates the same trend as seen in 2006/07 with most of the spend occurring in waivers over £50,000.

3.5 Analysis shows that the largest grouping of waivers by value i.e. £1,261,843 (41.3%) can be found in the “award with no tender process” category.

4. CONSULTATION

4.1 The Assistant Director 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 There are no direct financial implications arising from this report. All the waivers have been actioned in accordance with Contract Standing Orders

Finance Officer Consulted: Name: Mark Ireland Date: 10/09/08

Legal Implications:

5.2 There are no direct legal implications arising from this report. Full legal implications would be required within each report supporting a waiver in respect of a contract estimated to be over £50,000 (pre-May 2008), now £75,000. The Council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual’s Human Rights Act rights would be adversely affected by the recommendations in this report.

Lawyer Consulted: Name: Alison Leitch Date: 10/09/08

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 £50,000.

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 £50,000.

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.

Corporate / Citywide Implications:

- 5.7 These are included in section 7 below.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 N/A

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The analysis does not suggest any failure to comply with CSOs. The decrease in the value of waivers is consistent with the streamlining of the waivers authorisation and notification processes. This demonstrates achievement of value for money and reflects the changing nature of procurement, including the move to greater use of partnership working and collaboration.
- 7.2 Corporate Procurement continues to increase the profile of procurement with officers seeking advice about tendering and the use of more innovative approaches to procurement, which are allowed for within CSOs without the need for a waiver for e.g. the increase in collaboration with neighbouring councils and the use of consortium contracts. The revised Corporate Procurement Strategy has also supported this profile raising and the need for best practice procurement.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A - Analysis by Reason and Directorate - For Period 1/4/07 to 31/3/08
2. Appendix B - Summary of Waivers for financial years 04/05, 05/06, 06/07 & 07/08 by Directorate

Documents In Members' Rooms

N/A

Background Documents

N/A