

Subject:	Waivers of Contract Standing Orders		
Date of Meeting:	14 July 2016		
Report of:	Executive Director for Finance & Resources		
Contact Officer:	Name:	Cliff Youngman	Tel: 291408
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The Council's Contract Standing Orders (CSOs) require reports to be presented to the Policy, Resources & Growth Committee setting out all waivers authorised under CSO 20.2, 20.3 and 20.4. This report relates to the financial year 2015/16.

2. RECOMMENDATIONS:

- 2.1 That Policy, Resources & Growth Committee notes the number and value of waivers authorised under Contract Standing Orders 20.2, 20.3 and 20.4 during the financial year 2015/16.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 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 Procurement Strategy Manager.
- 3.2 CSO 20.7 states that a register of all waivers will be maintained by Corporate Procurement.
- 3.3 For the financial year 2015/16 Waivers have been collated under the council's former directorates: Finance & Resources; Adult Services; Children's Services; Public Health; Assistant Chief Executive (ACE); Environment, Development & Housing, and Legal & Democratic Services.
- 3.4 Statistical analyses of waivers in the financial years 2014/15 and 2015/16 are 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 2013/14, 2014/15 and 2015/16 is shown in Table 1 below. The table shows a large overall increase in the number and value of waivers during the last financial year.

Table 1						
	Number of Waivers			Value of Waivers		
Year	2013/14	2014/15	2015/16	2013/14 £m	2014/15 £m	2015/16 £m
Under £75,000	13	21	41	0.6	0.7	1.6
Over £75,000	11	12	22	2.2	3.1	19.5
Total	24	33	63	2.8	3.8	21.1

- 3.6 The £17.3 million increase since last year was caused largely by the increase in social care contract waivers. The modernisation of Social Care and Public Health services has necessitated service reviews, re-designs and re-commissioning, often necessitating waivers to extend current service contracts to allow these processes, including appropriate consultation, to take place. This increased the waivers in 2015/16 by £4.1m. Adult Services have also sought and received authority to waive a one-off 5- year direct award for £8.2m to enable the authority to secure the provision of essential dementia beds within the city.
- 3.7 A small number of unforeseen opportunities or emergencies which necessitated immediate action, and therefore waivers, occurred during the year. This included the Gas Maintenance tender being extended twice due to investigations arising during the re-tender, and severe damage to the King Alfred roof from Storm Imogen. Together these account for £4.8m of the 2015/16 waivers.
- 3.8 The increase in social care and Public Health waivers and one-off urgent waivers together account for £17.2m, i.e. nearly all of last year's increase.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Not issuing waivers would have required undertaking lengthy procurement processes in order to comply with Public Procurement Regulations which would have resulted in an interruption of the supply or provision of essential services potentially resulting not only in an inability to provide critical services but also potential legal risks through not being able to fulfil statutory duties.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 No consultation has been undertaken in relation to this report.

6. CONCLUSION

- 6.1 The analysis reflects the changing nature of council services, particularly in Adult and Children's services and Public Health, with a greater contract value being extended past the end of contract to cover service review and redesign. It is difficult to tender/commission future services until their future scope and duration is fully determined.
- 6.2 Procurement team are working with Adult Services, Children's Services, Public Health and the Clinical Commissioning Group (CCG) to implement longer term

commissioning plans and closer collaboration which should see such waivers decreasing in number and value over coming years.

- 6.3 Increased collaboration and engagement with category service areas has allowed the Procurement team to draw up a Forward Plan for the next two to three years which will promote early consideration of procurement options and eliminate some of the need for extensions.
- 6.4 The Corporate Procurement service continues to promote good procurement practice across the council and is 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.
- 6.5 With the transfer to the South East Shared Services e-procurement portal, and the possible entry into Orbis joint services, Procurement team are actively promoting greater collaboration with councils across the region. This may initially boost the number of waivers as contract end dates are brought into line (co-terminosity), but will see them decrease over time.
- 6.6 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 such as the possibility of setting up a purchase-to-pay system.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 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. It should be noted that any direct financial implications for individual waivers are provided and reported accordingly to support each waiver decision. Waivers are also regularly reported to and reviewed by the Member Procurement Advisory Board as part of a continuous improvement process.

Finance Officer Consulted: James Hengeveld

Date: 06/06/16

Legal Implications:

- 7.2 It should be noted that legal implications would be required within each report supporting a waiver decision in respect of a contract estimated to be over £75,000. Legal Services have been involved in providing legal implications for those waiver reports for this financial year and continue to be appropriately involved. This means that when a waiver of Contract Standing Orders is sought, a decision can be made based on an understanding of the legal implications and any associated risks.

Lawyer Consulted: Elizabeth Culbert

Date: 25/05/16

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.

Other Significant Implications:

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.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A - Waivers 2015/16 & 2014/15 by Reason
2. Appendix B - Waivers 2015/16 & 2014/15 by Directorate

Documents in Members' Rooms

1. None

Background Documents

1. None

