



## Reporting of Waivers

### SUMMARY

1.1 There are a total of 8 waivers within this report.

These cover the period 5 September 2016 to 8 November 2016

Broken down by directorate we have

| Directorate                    | Number of Waivers | Classification |           |
|--------------------------------|-------------------|----------------|-----------|
|                                |                   | Unavoidable    | Avoidable |
| Communities & Place            | 4                 | 0              | 4         |
| People Services                | 2                 | 0              | 2         |
| Organisation & Governance      | 2                 | 0              | 2         |
| <b>Total Number of Waivers</b> | <b>8</b>          | <b>0</b>       | <b>8</b>  |

Of these waivers:

None were unavoidable

2 were avoidable but there were each valued at less than £10,000 and were put in place to allow continuity of service

7 were avoidable if measures such as better planning had taken place.

### RECOMMENDATION

2.1 That the Chief Officers note the contents and approve the submission of the report to the Audit and Accounts Committee

### REASONS FOR RECOMMENDATION

3.1 Approval is sought prior to submission to the Audit and Accounts Committee.

**SUPPORTING INFORMATION**

4.1 The low value waivers were:  
Purchase of 130 replacement locks for Derby Homes vans to combat increased levels of theft - £9,100  
The Contractor is Trade Vehicle Locks Ltd. The contract value was £9,100  
This is the only source currently available for the lock that will combat the use of a skeleton key.

An extension to the contract for a master planning exercise of the North Riverside area for additional works - £8,440  
The Contractor is The Environment partnership. The contract value was £60,000  
The additional works required are an extension of the outputs being provided as part of the original commission.

4.2 Appendix 2 lists those waivers that have been granted during the period which were avoidable and valued over £10,000.

**OTHER OPTIONS CONSIDERED**

5.1 Not applicable.

This report has been approved by the following officers:

|  |  |
|--|--|
| <b>Legal officer</b><br><b>Financial officer</b><br><b>Human Resources officer</b><br><b>Estates/Property officer</b><br><b>Service Director(s)</b><br><b>Other(s)</b> |  |
|--|--|

|   |   |
|---|---|
| <b>For more information contact:</b><br><b>Background papers:</b><br><b>List of appendices:</b> | Name Linda Spiby 01332 64 3274 e-mail <a href="mailto:linda.spiby@derby.gov.uk">linda.spiby@derby.gov.uk</a><br>None<br>Appendix 1 – Implications |
|---|---|

|                     |
|---------------------|
| <b>IMPLICATIONS</b> |
|---------------------|

**Financial and Value for Money**

- 1.1 Each decision to waive competition requirements, where competition exists, has a financial impact which is taken into account when preparing the application for the waiver.

**Legal**

- 2.1 The report complies with the requirements of contract procedure rules to report waivers to the Audit and Accounts Committee.
- 2.2 Any waiver that increases the overall contract value or which is a direct award of a contract without competition, even where the value is below EU procurement thresholds, is contrary to the overarching principles of the Treaty for the Functioning of the European Union (i.e. transparency, equal treatment, proportionality, non-discrimination and mutual recognition) and therefore exposes to the Council to a risk (albeit this risk will in most cases be low) of a legal challenge. The grant of a waiver in accordance with the Council's Contract Procedure Rules does not remove this risk.

**Personnel**

- 3.1 None.

**IT**

- 4.1 None.

**Equalities Impact**

- 5.1 None.

**Health and Safety**

- 6.1 None.

**Environmental Sustainability**

- 7.1 None.

**Property and Asset Management**

- 8.1 None.

**Risk Management**

9.1 Any risks associated have been considered by the Head of Procurement and are being managed as part of the procurement process.

**Corporate objectives and priorities for change**

10.1 None.

Appendix 2

| Type of waiver | Department/ Division seeking the waiver | Background/Description of the Contract   | Value   | Request submitted through the waiver   | Additional comments and/or reasons the waiver is needed   | Date of Approval |
|----------------|---|--|---------|--|---|------------------|
| Urgent         | Communities & Place                     | The funding of the Christmas Lights  | £41,000 | To award the contract to D L Lighting without a tender process                       | £6,000 of funding will come from Partnerships for Better Business. D L Lighting won the previous tender.  | 08.09.2016       |
| Departmental   | Organisation & Governance               | Software to provide benefits legislative training and updates to support Council staff working in that function. | £22,000 | To extend the existing arrangement with Escalla for a further 12 months              | A procurement process will be carried out during this timescale for future requirements. There does not appear to be an alternative source of a compatible product. | 21.09.2016       |
| Urgent         | Communities & Place                     | The supply of a real Ice Skating Rink  | £90,000 | To make a material change to the remaining years of the contract with Showplace Ltd. | The changes double the cost of the contract which should have resulted in a new procurement process.  | 10.10.2016       |
| Departmental   | Organisation & Governance               | Support for the Autodesk products used within the Council  | £24,406 | To award a contract to Cadline Ltd without a quotation exercise                      | Not to direct award would have incurred a cost increase of over £4,000 linked to exchange rate changes. Cadline Ltd are a support partner of our contractor.        | 19.10.2016       |
| Departmental   | Peoples Services                        | To provide mobility support to children in mainstream schools with a visual impairment                           | £18,000 | To award a contract to Blind Children UK without a quotation exercise                | Soft market testing only identified this single provider. Blind Children UK are the previous contract holder.   | 06.10.2016       |

|              |                  |   |         |   |  |            |
|--------------|------------------|---|---------|---|--|------------|
| Departmental | Peoples Services | Make More Music in Derby Instrument Purchases | £22,934 | To extend the contracts with Normans and Wind Blowers to exceed the quotation threshold | The success of the project has led to expenditure above the £25,000 quotation threshold. Both companies were successful bidders in the quotation exercise that took place. | 07.11.2016 |
|--------------|------------------|---|---------|---|--|------------|