



Derby City Council

Audit and Accounts Committee
19 September 2018

ITEM 8

 Report of the Interim Strategic Director of
 Corporate Resources

Contract Waivers

SUMMARY

- 1.1 There are a total of 6 waivers within this report covering the period 28 May 2018 to 31 August 2018 and broken down by directorate below:-

Directorate	Number of Waivers	Classification	
		Unavoidable	Avoidable
Communities & Place	3	2	1
People Services	2	1	1
Corporate Resources	1	1	0
Total Number of Waivers	6	4	2

As the table shows of the 6 waivers, 4 were considered to be unavoidable.

This compares with 14 waivers that were considered by Audit and Accounts Committee on 19 June 2018 for the period 1 February to 25 May 2018.

RECOMMENDATION

- 2.1 That the Committee note the contents of the report.

REASONS FOR RECOMMENDATION

- 3.1 The information is for reporting purposes only; no decision is required by the committee.

SUPPORTING INFORMATION

- 4.1 All waivers over £10,000 are reported at appendix 2. Each waiver is signed off by the relevant Director stating they agree with the recommendation.
- 4.2 A waiver is required if the relevant process outlined in the Council's Contract Procedure Rules for awarding a contract has not been followed.

4.3 Full Council on 23 May 2018 agreed to vary the thresholds governing the type of procurement process required, the value of a contract requiring legal signature and the value of a contract requiring Cabinet approval if not a renewal of an existing contract is summarised below.

- the requirement for a minimum of one quote is increased from a contract value below £5,000 to a contract below £10,000
- the requirement for at least three quotes is for contracts valued between £5,000 and £24,999 is increased to between £10,000 and £99,999
- The threshold for requiring Cabinet approval for procuring a contract which is not the re-tendering of a current contract, or is already in a scheme previously approved by Cabinet is increased from £75,000 to £100,000
- The value of a contract requiring legal signature should be increased from £75,000 to £100,000.

The changes should promote better compliance and reduce the need for a number of waivers.

The changes would also support the 'local agenda' through the introduction of a simpler, more efficient process for all contracts up to a value of £100,000.

OTHER OPTIONS CONSIDERED

5.1 Not applicable.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	
For more information contact: Background papers: List of appendices:	Name Linda Spiby 01332 64 3274 e-mail linda.spiby@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Waivers

IMPLICATIONS

Financial and Value for Money

- 1.1 As a rule of thumb, the number of contract waivers should be kept to a minimum. 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	Directorate	Department/ Division seeking the waiver	Brief Description of the Contract	Value	Period Covered	Additional comments and/or reasons the waiver is needed	Date of Approval	Waiver ref
1	Avoidable	Communities & Place	Economic Growth	Extension of existing contract for support in preparation of the Derby Economic Growth Strategy	£14,000	04/06/2018 to 01/08/2018	The contract is with Genecon. Following the consultation period, responses received have not been sufficient to inform the preparation of a Delivery Plan. The extension will allow for further information to be gathered via focus groups and for support in finalising the Delivery Plan. A waiver could have been avoided if the original process had allowed for additional work or if more details of expected outcomes and key performance indicators had been included.	31 May 2018	W18- 004
2	Avoidable	Peoples Services	Adult Social Care	Extension of contract for training and short breaks for Carers.	£25,000	01/09/2018 to 30/11/2018	A new model for delivering carers services was agreed in May to be implemented from 1	28 June 2018	W18- 007

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							September 2018. This involved the letting of a single contract combining 2 existing contracts and taking some assessments in house. The contract with Creative Carers needs to be extended to allow for implementation of the new contract. A waiver could have been avoided if work to agree a new model and implementation date had been agreed earlier.		
3	Unavoidable	Communities & Place	Communications	Interim capacity at a strategic level to support the council's corporate service	£15,400	14/06/2018 to 14/10/2018	Services provided by Nottingham City Council to ensure delivery of key council communications priorities. The outcome of phase two of the corporate restructure will determine the structure and establish appropriate management of the	30 May 2018	W18-005

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							service.		
4	Unavoidable	Communities & Place	Regeneration, Property & Housing Department	Appointment of an Administrator to safeguard assets captured under the councils debenture.	£45,000	17/08/2018 to 31/12/2020	Administrator required as a Winding Up Petition Court Hearing date was issued to a company holding a DEGF loan. Following advice, ReSolve have been appointed to support the realisation of our security.	16 August 2018	W18- 008
5	Unavoidable	Peoples Services	Mental Health Team	Urgent home care package for Alzheimer sufferer	£13,650	31/08/2018 to 28/02/2019	3 care agencies have withdrawn their service due to difficulties with the individual's family so an agency has had to be found outside of our existing framework. A Court of Protection is being applied for. Honest Care has agreed to accept a contract in the interim.	31 August 2018	W18- 009
6	Unavoidable	Corporate Resources	Property Design & Maintenance	Appointment of a Project Manager through an agency outside	£38,480	02/07/2018 to 31/12/2018	Normal recruitment processes have failed to produce appropriate candidates. In order	3 July 2018	W18- 006

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				of our existing contract.			to deliver the 18/19 capital programme this key post needs to be filled. Vivid Recruitment have identified a suitable candidate at a competitive rate.		