



Reporting of Contract Waivers

SUMMARY

- 1.1 There are a total of 14 waivers within this report covering the period 1 February 2018 to 25 May 2018 and broken down by directorate below:-

Directorate	Number of Waivers	Classification	
		Unavoidable	Avoidable
Communities & Place	7	4	3
People Services	2	1	1
Corporate Resources	5	4	1
Total Number of Waivers	14	9	5

As the table shows of the 14 waivers, nine were considered to be unavoidable.

This compares with 17 waivers that were considered by Audit and Accounts Committee on 13 February 2018 for the period 31 October 2017 to 31 January 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 £5,000 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	Unavoidable	Communities & Place (now part of Corporate Resources)	Property Design & Maintenance	Renewal of Architectural Specialist Software for a period of 5 years.	£21,043	01/03/2018 to 28/02/2023	NBA (Trading name of the Royal Institute of British Architects (RIBA)) were the only possible provider identified. This was confirmed by the publication of a VEAT (voluntary Ex-Ante Transparency) notice for which no challenge was received.	20 February 2018	W17- 056
2	Unavoidable	Communities & Place	Regeneration, Property & Housing Department	Service to cover the Derby Enterprise Growth Fund Manager role.	£24,000	19/03/2018 to 31/07/2019	The post holder left the role 16 March 2018. Cover is required whilst a recruitment process takes places and the successful candidate is trained to fulfil the role. BE Group have previously been successful when bidding for contracts of a similar nature.	16 March 2018	W17- 063
3	Unavoidable	Communities & Place	Economic Regeneration	Partnership Project Worker in China	£30,000	31/03/2018 to 30/05/2020	The China Britain Business Council is the only organisation known	16 March 2018	W17- 064

	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
							by the Council to offer this service and already work closely with the UK Government. The total contract value is £60,000 but half of that is being met by Derbyshire County Council.		
4	Unavoidable	Communities & Place	Regeneration, Property & Housing Department.	Appointment of an Administrator	£45,000	10/04/2018 to 10/04/2019	Urgent appointment required to safeguard the assets captured under the Council's debenture. The work has to be undertaken by an independent administrator. Two were recommended by our external lawyers and we have selected the lowest cost	10 April 2018	W17-065
5	Unavoidable	Communities & Place	Traffic & Transportation	Software licence renewal	£17,604	22/04/2018 to 21/04/2023	TRICS Consortium Limited was the only possible provider identified to provide specialist software to support the assessment of potential impacts of proposed developments on	13 April 2018	W18-001

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							the transport network used in planning applications. This was confirmed by the publication of a VEAT (voluntary Ex-Ante Transparency) notice for which no challenge was received.		
6	Unavoidable	Peoples Services	Integrated Commissioning	Legal advice for the conversion of Cottons Farm Primary School and Lakeside Primary School to Academy status.	£17,760	06/03/2018 to 05/03/2019	The appointment of Eversheds-Sutherland solicitors is required as they have a detailed knowledge of the Council's original PFI Project Agreement which will need to be amended to facilitate the conversion.	6 March 2018	W17-060
7	Unavoidable	Corporate Resources	Benefits & Exchequer Services	Extension to existing contract for the Online Benefit Claims Solution	£20,370	01/04/2018 to 31/03/2019	A new contract combining this solution with the one below was awarded to Capita to commence 1 April 2018. Fundamental faults with the new solution remain unresolved so the existing contract is	28 February 2018	W17-057

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							being extended to safeguard the service provided to customers		
8	Unavoidable	Corporate Resources	Benefits & Exchequer Services	Extension to existing contract for a Risk Based Verification Solution used when customers claim benefits	£21,500	01/04/2018 to 31/03/2019	A new contract combining this solution with the one above was awarded to Capita to commence 1 April 2018. Fundamental faults with the new solution remain unresolved so the existing contract is being extended to safeguard the service provided to customers	28 February 2018	W17-058
9	Unavoidable	Corporate Resources	IT Services	Microsoft Support Services	£60,000	08/05/2018 to 14/06/2019	Microsoft are the only provider identified to provide the level of support required for their products. Routes with Microsoft resellers were explored but none could provide the service for the same cost.	4 May 2018	W18-003
10	Avoidable	Communities & Place	D2N2 Local Enterprise Partnership	Extension of existing contract for the supply of consultancy in	£10,790	05/02/2018 to 31/03/2018	The plan now demands more sector specific information and a	2 February 2018	W17-055

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				respect of the revision of the D2N2 Strategic Economic Plan			detailed review of previously gathered evidence which was not provided for in the original scope of works		
11	Avoidable	Communities & Place	Highways	Refurbishment of Friar Gate Bridge	£52,757.46	05/03/2018 to 31/05/2018	A quotation process was undertaken as it was thought the value of the works would not exceed £25,000. Only one quotation was received and this exceeds the quotation threshold.	1 March 2018	W17- 059
12	Avoidable	Communities & Place	Strategic Partnerships	Extension of contract with Tantus Solutions for work on the Metro Strategy	£6,000	29/06/2018 to 26/10/2018 This is a second waiver Total value spent will be £30,500	Further extension to contract to manage the transition and change as we move from the original Metro Strategy and the former governance structures to the new Growth Board and expanding Delivery Board.	14 March 2018	W17- 062
13	Avoidable	Peoples Services	Opportunity Areas	Pilot to identify evidence based recommendations for the Opportunity Area Board to consider	£24,999	01/04/2018 to 30/08/2018	This work is needed to ensure that Department for Education grants are not stopped.	19 February 2018	W17- 061

	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
				in autumn 2018.					
14	Avoidable	Corporate Resources	IT Services	Additional works required to migrate the Oracle E- Business Suite Servers to new servers	£30,750	17/04/2018 to 31/08/2018	The contractor has identified that certain applications cannot be migrated using their methods and they do not have the skills to complete the process. Beyond Systems have indicated that they will charge us on a time and materials basis so the figure quoted will be the maximum.	17 April 2018	W18- 002