

## Reporting of Waivers

### SUMMARY

1.1 There are a total of 11 waivers within this report.

These cover the period 12<sup>th</sup> March 2015 to 16<sup>th</sup> June 2015

Broken down by directorate we have

Directorate	Number of Waivers	Classification	
		Unavoidable	Avoidable
Resources	2	1	1
Neighbourhoods	8	2	6
CYP	1		1
<b>Total Number of Waivers</b>	<b>11</b>	<b>3</b>	<b>8</b>

Of these waivers:

3 were unavoidable

2 were avoidable but there were considered reasons for the Waiver

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

### RECOMMENDATION

2.1 That the Chief Officer Group 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 Appendix 2 lists those waivers that have been granted during the period 12<sup>th</sup> March 2015 to 16 June 2015

## OTHER OPTIONS CONSIDERED

- 5.1 Not applicable.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Emily Feenan  Martyn Marples – Director of Finance and Procurement Richard Boneham – Head of Governance and Assurance
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Name Linda Spiby 01332 64 3274 e-mail linda.spiby@derby.gov.uk None Appendix 1 – Implications

<b>IMPLICATIONS</b>
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### **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 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
<b>UNAVOIDABLE WAIVERS</b>						
Urgent	Resources	To employ an exit management consultant to lead the work involved with successfully managing the end of the contract with Serco	£81,000	To allow direct award to Wokingham Borough Council	Attempts to fill the vacant post had failed.	18.03.2015
Cabinet	Neighbourhoods	To secure the services of MVA/Systra to continue to maintain and operate the Derby Area Transport Model	£400,000 (total for 2 years)	To waive the requirement for a tender process	No reasonable alternative or substitute exists because the cost of developing one would be in the region of £100,000  Continuing with the current provider without a call for competition is permissible under the Public Contracts Regulations 2015 article 32(2)(b)(iii).	04.06.2015
Cabinet	Neighbourhoods	To go direct to a specialist consultancy to cover vacancies which cannot be filled using existing frameworks.	£147,000	To waive the requirement for a tender process	Attempts to fill the vacant posts had failed. Waiver is for 6 months to allow for a new departmental structure to be implemented	16.06.2015

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
<b>AVOIDABLE WAIVERS BUT WITH CONSIDERED REASONS</b>						
Urgent	Neighbourhoods	Annual maintenance contracts for business process and workflow data systems used by Trading Standards and Environmental health	£43,137 and £51,314	To extend the current contracts with IDOX and Civica	There are possible forthcoming service changes which will change what would be tendered for.	17.03.2015
Departmental	Neighbourhoods	Temporary catering Staff to service the requirements of the Derby LIVE catering section	£25,000	To go direct to Michael Wisser Hospitality Personnel whilst a tender process is carried out	The existing agency contract has been unable to provide experienced candidates and the requirement has increased due to the introduction of the Arena, the Kiosk in Markeaton Park and the Orangery café.	16.06.2015

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
<b>AVOIDABLE WAIVERS WITH BETTER PLANNING</b>						
Departmental	Resources	Maintenance of legal services CSM	£11,200	To extend the current contract with Lexis Nexis	Soft market testing is underway. The extension can be terminated with 3 months' notice when a suitable replacement is found	11.06.2015
Urgent	Neighbourhoods	Purchase of Pursuit Timing Equipment for Derby Arena	£67,955	To waive the requirement for a tender and order from the Swatch Group Ltd	Equipment required for the pursuit cycling event on 14-16 August and therefore needed to be order by 13.05.2015	13.05.2015

Departmental	Neighbourhoods	To employ a specialist consultant to carry out a review of the Homes for Older People and provide Fire Safety advice	£12,317.50	To waive the requirement for 3 quotes	Available frameworks exist but the cost through the framework was £114 per hour. This arrangement is at £75 per hour	11.06.2015
Urgent	CYP	Child Exploitation Service (CSE Service). Provides direct support to Children and Young people at risk of sexual exploitation.	£31,890 For period to August 2015	To extend the current contract with Safe and Sound until August 2015.	The service is currently out to tender.	23.3.2015
Departmental	Neighbourhoods	Licence renewals for 3 specialist pieces of software used by the Transport Planning Group	£8,364	To extend existing agreements whilst procurement processes are carried out	Required to address ongoing business needs whilst the process is in progress	15.06.2015
Urgent	Neighbourhoods	Fire Evacuation Chairs for use at the Arena	£25,470	To waive the requirement for a tender and order direct from Swallow Evacuation and Mobility Products Limited	Required urgently for the Derby Arena Launch on 19 March.	13.03.2015