

Annual Report on Exceptions and Exemptions (Waivers) to Procedure Rules

Report of Councillor Angela Lax

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Key Decision? NO

Local Ward Members Full Council



**AUDIT &
MEMBER
STANDARDS
COMMITTEE**

1. Executive Summary

- 1.1 To report on the number of Exceptions and Exemptions (Waivers) made in financial year 2018/19 under the Contract Procedure Rules.

2. Recommendations

- 2.1 The Committee is asked to review the Exceptions (Waivers) set out within **APPENDIX A**.

3. Background

- 3.1 Compliance with Procedure Rules is essential in order to demonstrate sound financial management of the Council's affairs. There are, however, occasions when an Exception or Exemption (Waiver) may be granted.
- 3.2 The process for granting an Exception or Exemption (Waiver) forms part of the approved Procedure Rules.
- 3.3 However, significant levels of Exception or Exemption (Waiver), without justifiable reasons, could potentially give rise to concerns that the Council was not achieving value for money. To ensure financial standards and probity in this process of granting Exceptions and Exemptions (Waivers) are maintained, an annual report is produced for Audit Committee.
- 3.4 The Contract Procedure Rules allow us to agree a contract without keeping to one or more of the procurement rules. We may grant an exception under conditions set out below. We cannot grant an exception if to do so would mean breaking any laws on public procurement or other relevant legislation.
- 3.5 The Chief Executive may grant an exception to these rules using a request for waiver form which is then kept and reported on by the monitoring officer on an annual basis. An application for an exception will not be granted without good reason. A lack of time caused by poor forward planning is not a good reason and so will not be allowed.
- 3.6 Exceptions may be granted in the following circumstances:
- If there is an unexpected emergency involving danger to life or health or serious damage to property, if the goods, work or services are needed more urgently than would be possible if we followed the tender or quotation procedure;
 - If, for technical reasons, the goods, work or services can be bought from only one provider and this can be justified;
 - If the proposed contract is an extension or change to the scope of an existing contract with a value (including the change or extension) that is below the relevant EU limit. However, this does not apply if the existing contract provides for an extension;
 - If we can achieve value for money by allowing a supplier to complete work already partially undertaken that would cost significantly more to place with an alternative provider;
 - If we can achieve value for money by buying used vehicles, equipment or materials; and

- To deliver our aims to develop the local economy, without breaking public procurement rules.

3.7 The level of Exceptions and Exemptions (Waivers) granted during 2018/19 totalling approximately £90,237.50 is shown in summary at **APPENDIX A** of this report.

Alternative Options	None.		
Consultation	Any issues are considered at the time the Waiver is granted.		
Financial Implications	The Council procured goods and services during 2018/19 with a total value of £ £13,923,500 . The majority of this procurement activity – 99.3% (98.3% in 2016/17 and 99.3% in 2017/18) has been procured using routes where a Director, Head of Service or Manager has determined that they are compliant with the requirements of the Procedure Rules.		
Contribution to the Delivery of the Strategic Plan	The Procedure Rules are a significant contributor towards the demonstration of best value, and ensuring competition in the awards of contracts. Any significant level of expenditure not within the Procedure Rules could potentially be construed as not having demonstrated best value.		
Equality, Diversity and Human Rights Implications	Any issues are considered at the time the Waiver is granted.		
Crime & Safety Issues	Any issues are considered at the time the Waiver is granted.		
GDPR/Privacy Impact Assessment	None however we do ask all contractors to comply with the Data Protection Act 2018.		
	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Adherence to Procedure Rules is needed to show achievement of value for money and the sound use of public funds. Non adherence, without justifiable reasons, potentially exposes the Council to inefficient use of public funds and accusations of improper actions.	All officers have been trained in procurement and our CPR's. Specialist procurement advice is temporarily available in-house, whilst a permanent solution is being sought. Internal Audit Review.	Green – Tolerable
B	Breach of EU procurement regulations	All officers have been trained in procurement. Specialist procurement advice is temporarily available in-house, whilst a permanent solution is being sought. Internal Audit Review.	Yellow – Material
Background documents Financial Procedure Rules Contract Procedure Rules			
Relevant web links			

APPENDIX A

REQUEST FOR WAIVERS FROM CONTRACT PROCEDURE RULES LICHFIELD DISTRICT COUNCIL – FINANCIAL YEAR 2018/19

Title of Contract/Framework Agreement	Description of Goods/Works/Services	Name of Proposed Provider, if known	Duration and Value of Contract	Signed off date
Civica Data export and disposal modules	Additional module to enable documents to be extracted and deleted from the “Comino” document management system	Civica	2-3 years £59,985	25.05.2018
Office of the Police & Crime Commissioner Service Level Agreement: Space Programme	The funding will support 2 weeks of activities for young people with physical disabilities and additional needs aged between 11 and 17 years run by Liberty	Liberty	May 2018 – Nov 2018 £5,110	01.06.2018
Become a Councillor Campaign	To provide materials, host event and create a microsite for the ‘Become a Councillor’ campaign	Local Government Association	1 year maximum £2,000	12.07.2018
Local Plan Consultancy	Assistance with Local Plan hearing statements	Land Use Consultants (LUC)	3 days £1957.50	06.08.2018
Consultancy Assistance	Consultancy assistance with Sequential Test production	JBA Consulting	Two weeks £1250	07.08.2018
Friarsgate Lessons Learned Review	Facilitating lessons learned review, holding two workshops and producing report	Local Partnerships	2 months £10,000 + £2,000 expenses with contribution of £5000 from LGA towards the cost	07.08.2018

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Commissioning of project management and quantity surveying support – Birmingham Road site, Lichfield	To provide project management and quantity surveying support to the District Council in the formulation and submission of a planning proposal to temporarily redevelop land at Birmingham Road, Lichfield. To support the Council in procuring contractors to implement a scheme subject to consents being received. To assist the Council in drawing up a commissioning brief to facilitate a master planning exercise of Lichfield City Centre including the Birmingham Road site.	Greenwood Projects	4 months Short medium term redevelopment project Dec 2018 - April 2018 re-master planning commission work – Jan 2019 - March 2019 £12,700	21.12.2018
Press Notices with local papers with Reach Publishing Services Ltd (previously was known as Local World)	Statutory required Press Notices for Planning and Listed Building Applications	Reach Publishing Services Ltd	Ongoing Approx £28,000 per annum	31.12.2018
Multi Tax Helpline	Multi Tax Helpline covering Indirect Taxation (VAT and Stamp Duty Land Tax) and Direct Taxation (Income Tax and National Insurance)	PWC	3 year contract - £3,000 per annum	19.03.2019
Housing Jigsaw (Homelessness Reduction Act database)	Extension to the existing IT system to record homeless enquiries; monitor case progression to enable effective management; produce timely and accurate reports to meet our legal duties.	Housing Partners/National Practitioner Support Service	1 year - £9,225	28.03.2019