

19 July 2017**Agenda Item: 7****REPORT OF SERVICE DIRECTOR – FINANCE, PROCUREMENT &
IMPROVEMENT****FINANCIAL REGULATIONS WAIVERS 2016/17****Purpose of the Report**

1. To inform Members about requests to waive the Financial Regulations (waivers) in the Period (1st April 2016 - 31st March 2017).

Information and Advice

2. The Council's Financial Regulations set out the procedures and standards for financial management and control that must be followed by officers.
3. The Council may only contract with external parties within the legal framework for Local Authority procurement. However there are occasions where it is not practical or possible to procure contracts in accordance with the standard contract procedures. In such instances officers may seek exemption through a waiver. The waiver process acts as a peer challenge to such requests to ensure there is a valid reason for approval.
4. Waiver requests are considered by S151 officer who determines whether they can be approved or not. The S151 may also refer any request for a waiver to the Group Manager Legal Services.
5. There are six categories of exemption where the rules for obtaining quotations or running tenders can be suspended. These are:-
 1. The work to be executed or the goods or materials to be supplied constitute the first valid extension of an existing contract,
 2. The Council is buying from a contract entered into following a compliant tendering exercise by a consortium, collaboration, of which the Council is a member and authorised to buy from or through,

3. The work to be executed or the goods or materials are specific to that machinery or upgrades to existing software packages,
4. Works, supplies or services are urgently needed for the immediate protection of life or property,
5. The Corporate Director decides that special circumstances make it appropriate and beneficial to negotiate with a single firm or that a single tender be invited.
6. The Section 151 Officer, after consulting with the Group Manager for Legal Services, may vary, waive or suspend any regulation. Requests to waive Financial Regulations.

6. The tables below summarise the number of waivers granted in 2016/17 (table1) compared to the previous year by directorate and value, full details for those waivers are contained in appendix 1.

Table 1	2016-2017				2015-2016			
Directorate	Number Waivers	Total Value	No. Rejected	Value Rejected	Number Waivers	Total Value	No. Rejected	Value Rejected
Resources	8	£369,475	3	£173,000	11	£402,740	1	£8,000
Adult Social Care, Health & Public Protection & Public Health	11	£1,041,042	4	£368,254	11	£1,891,176	1	£270,176
Children, Families & Cultural Services	4	£107,521	2	£89,521	6	£322,100	1	£137,300
Place	3	£78,829	1	£17,200	10	£4,638,691	1	£1,251,790
Schools	0	0	0	0	2	£180,000	0	£0
TOTAL	26	£1,596,867	10	£647,975	40	£7,434,707	4	£1,667,266

7. The total number of waivers has decreased since last year with an overall reduction of 35%. In 2015-16 10% of requests received were rejected in 2016-17 the rejection rate was 38%. Whilst we have not seen a reduction in the number of requests received from ASCH&PP there has been a 27% reduction from Resources and 33% reduction in requests from CFCS. The most significant change can be seen from colleagues in Place with a 70%

reduction in requests, however this is likely to be a natural occurrence due the creation of the joint ventures in both highways and property.

8. The largest number of high value waivers was for ASCH&PP, whilst the value of these requests has reduction compared to the 2015-16 figures, it has to be noted that the spend still exceeds £1m.
9. Category Managers continue to work with the directorates to develop procurement category strategies that will aid the continued reduction of waiver requests.

Statutory and Policy Implications

10. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

- 1) That Members of the Governance and Ethics Committee to note the Financial Regulations Waivers 2016/17 and the continued progress in keeping waivers to a minimum.

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For any enquiries about this report please contact:

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Constitutional Comments (KK 06/07/17)

11. The proposal in this report is within the remit of the Governance and Ethics Committee.

Financial Comments (SES 05/07/17)

12. There are no specific financial implications arising directly from this report.

Background Papers and Published Documents

13. Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All

Appendix 1

Waiver Details

Ref	Exemption	Subject	Value	Department	Waiver Details	Approved/Rejected
FR235	5	Performance Based Budgeting (PBB) Pilot	£70,000	CFCS	The waiver received requested the approval of a 3 year pilot on performance based budgeting to be delivered through a selected consultancy firm.	Rejected. The waiver was rejected as it appeared the commissioner had already commenced with the work, and no alternative supplier options had explored.
FR236	5	Critical Friend Support to the Corporate Services Review	£8,475	Resources	The waiver received sought to directly award a contract to a consultancy firm to deliver a Critical Friend Support to the Corporate Services Review in March 2016.	Approved. The waiver was approved on the basis that the intended contractor had the experience and knowledge of NCC, the costs to run a full tender process would outweigh the intended fee's to be paid.
FR237	1	CCTV Clayfields Security	£36,629	Place	The waiver received requested the direct award of a contract to replacement of 80 CCTV cameras. The proposal requested awarding the contract to the original security system installer. The stakeholder did not want to destabilise this system by seeking an alternative supplier.	Approved. The waiver was approved on the condition that there needed to be a formal contractual arrangement put in place between NCC and the supplier. The department was also required to provide the financial analysis of the cost comparison of the total replacement option.
FE238	5	Waste Management: Mansfield and Ashfield residual waste solution	£25,000	Place	The waiver received requested the continued use of consultancy support to conclude the waste management project.	Approved. The waiver was approved as it was deemed neither cost effective in both time and energy going to the market for support from a new potential consultant at this stage. Once this piece of work was completed it was expected that the relationship with this consultant would cease.

FR239	5	Commercial Development Unit	£50,000	Resources	The waiver received sought approval to directly engage the support of another County Council with the development of a model for the commercialisation of services at NCC, and to provide support to a pilot of the model.	Approved. The waiver was approved on the condition that once pilot was complete, no further works would be directly commissioned from the Council. This waiver was to cover the pilot and its conclusion in July 2016.
FR240 Was deemed not to be a waiver and returned						
FR241	4	Hospital Discharge Service	£140,868	ASCH&PP	The waiver received sought to directly award a care package to an out of area care provider. Contracts with current providers did not cover out of area placements, and the family of a particular service user wanted the placement to be in the City.	Approved. The waiver was approved on the basis that the urgent need and potential impacts for the service user outweigh the risks. The waiver was approved for a maximum of 2 years, and it was expected that the compliance position was resolved before the expiry of this waiver.
FR242	6	Intermediate Care services in Bassetlaw	£210,973	ASCH&PP	The waiver was received in June 2016 to seek the continuation of a jointly commissioned intermediate care service with health colleagues in Bassetlaw.	Rejected. The waiver was not considered for approval as it was received in June 2016 when the service had continued to run and be funded from April 2016 it was therefore a retrospective request.
FR243	5	Appointment of Insurance Fund Valuer	£10,000	Resources	The waiver received sought to direct award a contract to an insurance fund value on the basis of previous work that they had delivered for the authority in relation to the requirements to review NCC insurance fund.	Rejected. The waiver was rejected on the basis that there are other providers in the market, the stakeholder was instructed to seek alternative quotations.
FR244	5	Futures in Mind (Chapter 4): Resilient children and Young People in Nottinghamshire	£240,000	ASCH&PP	The waiver received sought to directly award a contract for 3 years for the provision of support services to children affected by traumatic incidents. The suggested provider was delivering a similar programme for health in Bassetlaw.	Approved. The waiver was approved on the basis that the programme would only be rolled out for the North and West of the county, through a proven programme.

FR245	4	Day Service for person with profound physical needs	£52,000	ASCH&PP	The waiver received sought to directly award to the company to provide ongoing day care support to a service user with complex needs. Other options had been explored but they could not provide the facilities required.	Approved. The waiver was approved for a period of 1 year, contract documentation would be put in place between NCC and the provider.
FR246	5	Provision of Independent Adviser services to pension fund	£80,000	Resources	The waiver received requested the assignment of a previously awarded contract to an Independent adviser to the pension fund. A compliant procurement process had previously been concluded with the award of contract but subsequently the company had taken the decision to enter voluntary liquidation.	Approved. The waiver was approved on the basis that the costs to re-procure the contract could lead to a gap in service deliver. It would not make economic sense to re-procure the service at this time, and the financial position of the risk of liquidation by the original organisation could not have been known at the time of contract award.
FR247	5	Consultant Quality Assurance Safeguarding Adults	£38,500	ASCH&PP	The waiver received sought to directly award a contract to a consultant who would work closely with the Strategic Safeguarding Adults' Team and engage practitioners, managers and senior leadership colleagues in the review and revision of the current quality assurance process.	Rejected. The waiver was rejected as it was considered to be retrospective, there are other suppliers in the market who could deliver this project.
FR248	3	Ski tow repairs Holme Pierrepont	£19,521	CFCS	The waiver received sought to directly award a contract for the repair of the ski tow cables.	Rejected. The waiver was rejected as the works needed to be picked up with the contractor for the site and was not NCC responsibility.
FR249	5	Video Relay Service for British Sign Language users	£3,000	Resources	The waiver received sought the directly award for the provision of a Video Relay Service for British Sign Language users.	Approved. The waiver was approved on the condition that no further requests will be submitted post May 2018 and should the service be required following the pilot it would be combined with the City Council's procurement activity.
FR250	5	Pension Fund Property Work	£150,000	Resources	The waiver received sought to continue to directly engage the services of a consultant in support of the pension funds investment programme.	Rejected. The waiver was rejected on the basis that the compliance checks on the proposed contractor had not been undertaken and the risks of direct award to the individual were too high without further competition.

FR251	5	CFO Insights - Subscription	£30,000	Resources	The waiver received sought authorisation to award a contract directly to the subscription supplier. Evidence was provided that this is a unique offer over a short period of time and to go to the market would not make economic sense.	Approved. The waiver was approved on the basis that this is a subscription for the period of 3 years and for a fixed term cost any future requirements would need to be tendered.
FR252	5	CDU exemption for Trading Standards	£13,000	Resources	The waiver received sought the extension of the Commercial Development Unit work with another County Council the request sought the approval to proceed to spend additional monies on top of that already committed through the pilot project.	Rejected. The request was rejected as the application was retrospective and therefore was proceeding at risk.
FR253	5	Young people's health website (Health4teens, Leicestershire NHS Trust)	£40,482	ASCH&PP	The waiver received sought to directly award a contract to our health colleagues so that NCC could utilise the base of their young people's health website to fit to a Nottinghamshire model.	Approved. The waiver was approved on the basis that the Contractual relationship needed to be fully explore before any contract was entered into or any work authorised to proceed, and that this was a proven delivery model.
FR254 Was deemed not to be a waiver and returned						
FR255	5	Interim Hospital Discharge Winter Pressures	£44,625	ASCH&PP	The waiver received sought to commit some additional funding to support the hospital discharge services during winter pressures.	Approved. The waiver was approved as the cost and time of a procurement exercise would delay service delivery.
FR256	5	The East Midlands ASC SLI programme	£42,000	ASCH&PP	The waiver received sought to approve to continue to commission a provider to deliver a sector led improvement programme as part of the EM ADASS Branch of work to support an adult's peer challenge improvement programme.	Rejected. The waiver was rejected on the basis that it was received in November 2016, yet the service had been running since April 2016.
FR257	4	Supported Living Placement – out of county	£76,780	ASCH&PP	The waiver received sought to approve the direct award of an emergency placement provision out of county for a vulnerable adult in Derbyshire.	Rejected. The waiver was rejected as the placement was made on 3rd October but the waiver was not received until 18.11.2016.

FR258	5	D1N2 (East Mids) Social Investment Platform - Social Impact Bonds.	£18,000	CFCS	The waiver received sought to appoint a supplier to support CFCS with their application for funding to roll out Social Impact Bonds.	Approved. The waiver was approved as the cost of the application was small, and It would not make economic sense to go the market to procure support on such a small value assignment at this stage.
FR259	5	Oaklands Care Home - ASC Placement	£46,000	ASCH&PP	The waiver was received following a court Best Interest Decision that was made in January regarding the relocation of an adult mental health placement to Bristol from Nottingham. The waiver sought to approve the placement with a non-contracted supplier, in the short term to allow time for contracts to be agreed.	Approved. The waiver was approved for a maximum of 12 months with a formal contract being put in place.
FR260	5	Friendship Agreement with the Province of Zhejiang	£25,000	Resources	The waiver received sought to directly award a contract to the supplier who has a specialist China Unit that can assist NCC with this development.	Approved. The waiver was approved on the basis that Both the economic cost of tendering this low value tender and the potential impact on future relations with Province of Zhejiang, make it not a viable project for a full procurement exercise, in line with the financial regulations.
FR261	5	Supported Living Placement – out of county	£108,810	ASCH&PP	The waiver received sought to directly award a short term care package out of county to a provider for a service user with complex needs, no alternative services are available to meet the needs at this time and therefore a 6 months placement was requested.	Approved. The waiver was approved on the basis of a 6 month only placement and a contract being put in place.
FR262	5	Delivery of extra care and supported living accommodation on council owned site	£17,200	Place	The waiver received sought to directly award a contract to consultant to undertake some work at one of our sites as to the best use for this site.	Rejected. This waiver was not approved on the basis that there is a market out there for this type of consultancy support that does not appear to have been explored.

FR263	4	Residential Placements	No value	CFCS	<p>There is a need for residential placements and/or education for Looked After Children, particularly when the needs of the young person are complex, including those with special needs and/or disabilities. Our own contracted provision via 2 block contract arrangements for residential accommodation is not always appropriate due to those complex needs. The Council is also part of a regional framework that has a number of Suppliers on it that offer residential placements, and again those Suppliers may refuse to offer a place due to the complex needs or homes being full. Rather than issue a waiver for every request an overall waiver to approve short term off contract placements was requested.</p>	<p>Approved. The waiver was approved on the basis that after 12 months of operation a review would be carried out (and annually thereafter) to consider whether other alternative compliant procurement options have been identified or any adjustments to the approach have been identified. This waiver should be re-approved after each annual review to ensure that consideration is given to its ongoing need.</p>
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