

**21<sup>st</sup> July 2020****Agenda Item: 6****REPORT OF SERVICE DIRECTOR – FINANCE, PROCUREMENT &  
IMPROVEMENT****FINANCIAL REGULATIONS WAIVERS 2019/20****Purpose of the Report**

1. To inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2019 - 31<sup>st</sup> March 2020.
2. To inform Members about the request to waive the Financial Regulations (waivers) due to the Covid-19 response.

**Information**

3. The Council's Financial Regulations set out the procedures and standards for financial management and control that must be followed by officers.
4. 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.
5. Waiver requests are considered by the Council's Section 151 (S151) Officer who determines whether they can be approved or not. The S151 Officer may also refer any request for a waiver to the Group Manager Legal, Democratic and Complaints.
6. There are four categories of exemption where the rules for obtaining quotations or running tenders can be suspended. These are: -
  - i. The Section 151 Officer may vary, waive or suspend any financial regulation,
  - ii. The works to be executed or the goods or materials to be supplied consist of repairs to, or parts for, existing proprietary machinery, where such repairs or parts are specific to that machinery or upgrades to existing software packages.,
  - iii. Works, supplies or services are urgently needed for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the

Council is responsible. In such cases the contract must only last if it is reasonably necessary to deal with the specific emergency,

- iv. The Corporate Director, in consultation with the Group Manager for Procurement, decides that special circumstances make it appropriate and beneficial to negotiate with a single firm or that a single tender be invited and that best value for the Council can be achieved by not tendering.

7. The table below summarises the number of waivers granted in 2019/20 (Table1) compared to the previous year by directorate and value, full details for those waivers are contained in Appendix 1.

<b>Table 1</b>	<b>2019-2020</b>				<b>2018-2019</b>			
<b>Directorate</b>	<b>Number Waivers</b>	<b>Total Value</b>	<b>No. Rejected</b>	<b>Value Rejected</b>	<b>Number Waivers</b>	<b>Total Value</b>	<b>No. Rejected</b>	<b>Value Rejected</b>
Chief Exec	3	£280,000	0	0	0	0	0	0
Adult Social Care (ASC) Health & Public Protection & Public Health	8	£890,808.48	2	£70,155.60	4	£200,750	1	£15,000
Children, Families & Cultural Services (CFCS)	7	£655,167	0	0	3	£88,540.00	2	£38,540
Place	7	£827,949	5	£722,949	8	£548,361.20	1	£340,000
Schools	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>25</b>	<b>£2,653,924.48</b>	<b>7</b>	<b>£750,104.60</b>	<b>15</b>	<b>£837,651.20</b>	<b>4</b>	<b>£393,540</b>

8. The total number of waivers has increased since last year. In 2019-20, 28% of requests received were rejected.
9. There has been a significant increase in waiver requests from both Adults and Children's Departments. The number of waiver requests from the Place Department have remained similar to last year, whilst the number from Chief Executive department has increased since

last year. The total value of spend requested through financial waiver has increased since last year.

10. Category Managers continue to work with the directorates to develop procurement category strategies that will aid the continued reduction of waiver requests.

### **COVID-19 Waivers**

11. During the Covid-19 outbreak, the Council's efforts were focussed largely on the response to pandemic and therefore planned commissioning and procurement activity was paused. As such, there was an urgent need to extend contracts that were due to expire and issue direct awards for some services to ensure continuity of service delivery.
12. A similar response has been taken in other neighboring authorities to ensure continuity of service delivery.
13. The tables below summarise the number of waivers granted during the COVID-19 response, full details for the waivers are contained in Appendix 2.

Directorate	Number of Waivers	Total estimated value
Chief Exec	4	£3,025,000
Adult Social Care (ASC) Health & Public Protection & Public Health	4	£5,623,000
Children, Families & Cultural Services (CFCS)	2	£68,000
Place	5	£1,136,000
Schools		
<b>TOTAL</b>	<b>15</b>	<b>£9,852,000</b>

14. Category Managers have started to work with the directorates to develop compliant contracts as the Council moves towards the recovery stage.

### **Other Options Considered**

10. Other options were not considered applicable for this annual update report.

### **Reason/s for Recommendation/s**

11. This report is to inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2019 - 31<sup>st</sup> March 2020 and during the COVID-19 response. Every effort is made to ensure waivers are kept to a minimum and through this report, members are updated of the detail of spend coming through financial regulation waivers.

### **Statutory and Policy Implications**

12. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty,

safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment 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) Members of the Governance and Ethics Committee to consider the detail contained in the report Financial Regulations Waivers 2019/20 and the continued progress in keeping waivers to a minimum.

**Nigel Stevenson**

**Service Director – Finance, Procurement & Improvement**

**For any enquiries about this report please contact:**

Kaj Ghattaora - Group Manager, Procurement

### **Constitutional Comments (KK 07/07/2020)**

13. The proposals in this report are within the remit of the Governance and Ethics Committee

### **Financial Comments (SES 08/07/2020)**

### **Background Papers and Published Documents**

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

Waiver Details

Number	Ref	Subject	Value	Department	Waiver Details	Approval/Rejection
1	FR299	Group Manager for Property	£70,000.00	Place	The post needed to be filled whilst the permanent post was recruited to.	<b>Approved</b> the waiver was approved on the grounds that the provider has specialist knowledge in order to support the recruitment requirements.
2	FR300	Systems Review Project - Technical Support	£14,850.00	Adults	Technical and specialist support to enable the data and skill transfer from Abacus system to Mosaic. This is part of the Systems Review Board.	<b>Approved</b> The waiver was approved on the grounds that it would not be economically viable to re-tender the service at this stage and the project is in flow, the previous employee supporting the project has left the authority and there is a risk to business failure.
3	FR301	Children's Healthwatch	£23,875.00	Children's	Extension of a children's engagement project to scope out future commissioning work for 2020 and beyond. Any future activity will be	<b>Approved</b> given the value and the time restraints it would not make economic sense to put this through a full tendering process or

					done through formal procurement process.	call off from other frameworks.
4	FR302	Transport Modelling to support the Housing Infrastructure Fund (HIF) Bid Submission	£40,255.00	Place	Transport Modelling to support the Housing Infrastructure Fund (HIF) Bid Submission	<b>Rejected - the waiver was rejected</b> on the basis that the request was retrospective.
5	FR303	Visioning and Place Shaping for Development Corporation	£35,000.00	Place	A procurement process was already underway, however sign off of the specification was delayed by central government. The project needed to continue therefore interim support was sourced	<b>Approved</b> given the value and the time restraints it would not make economic sense to put this through a full tendering process or call off from other frameworks.
6	FR304	Research in Practice	£15,000.00	Children's	The funding is from Department for Education to enable social workers to develop a level of skill. Continious Professional Development for social work is a key priority for the Council and one that Ofsted highlighted that needs priority.	<b>Approved</b> due to one-year contract only and evidence that the market for provision has been explored.
7	FR305	Rushcliffe Home Based Care	£615,000	Adults	This waiver is requested to award a Care Services contract to Metropolitan on a temporary basis until the authority has assessed all the implications around Home Care in Rushcliffe. Metropolitan Housing are the Housing with Care Provider so are already familiar with these housing schemes and have experience of providing	<b>Approved</b> - Approval was based upon urgency of continuing care and the evidence of issues surrounding the supplier market

					home care services in similar housing with care schemes.	
8	FR306	Better Care Fund - Consultancy Support	£20,000.00	Adults	Professor John Bolton and the Institute of Public Care have a long-standing relationship with Nottinghamshire County Council and the Local Government Association (LGA). The LGA are currently procuring Professor John Bolton to complete some elements of this work and are funding 5 days of consultancy. The Council have one-off funding approved by Committee as part of the Winter Plan (Better Care Fund money) available to support improved multi-agency discharge planning in the NUH system.	<b>Approved</b> - this waiver request as John Bolton is the sole provider in this instance. It would be inefficient to appoint someone different to undertake the work who was unfamiliar with the work, system and partners.
9	FR307	Interim in Property Services	£35,934.00	Place	Interim Estates Surveyor to work in Property & Estates to assist with contract set with Hays.	<b>Rejected</b> - on the basis that the request was retrospective.
10	FR308	Systems Review Project - Technical Support Extension	£42,900	Adults	This contractor was sourced through a finance waiver in 2018, following attempts to source resources through Reed which proved unsuccessful. A further waiver was granted in April 2019 to complete this work.	<b>Approved</b> - this request is approved as an alternative contractor cannot be sourced at this late stage in the project. The approval is subject to no further work being commissioned through

					The project has been delayed further, therefore the request for a further waiver to complete this project. This is a key element of the Systems Review Project and the additional work is essential to complete the Systems Review Project on time, to ensure effective transfer of data and skills from Abacus to Mosaic.	this route as contingency for slippage in time has been factored in.
11	FR309	Sensory Occupational Therapy Specialists	£10,000.00	Children's	Suitably qualified and experienced Sensory OTs and practitioners are short in supply and recruitment is challenging. NCC have been out to recruitment on two separate occasions and not been able to recruit.	<b>Approved</b> - due to low value and immediate need has been identified
12	FR310	Healthwatch	£596,000	Place	Continuation of contract with current supplier for Healthwatch to ensure fulfilment of joint contract with City Council.	<b>Rejected</b> - tender process can be achieved in the timescales
13	FR311	Alternative Education Data Management System	£9,500.00	Children's	The service provided is the collation of School attendance data by the external provider, Perspective Ltd. It is a statutory duty of the County Council that data relating to the attendance of pupils in Alternative Education Provision is collected and managed.	<b>Approved</b> – due to a statutory duty for the Council



14	FR312	Appointment of an interim Development Surveyor for an initial 3 months (with extension available)	£25,000.00	Place	Due to the increasing number of developments, sites and projects we are dealing with there is an urgent need to increase capacity and bring in more development experience.	<b>Rejected</b> – retrospective waiver
15	FR313	Refurbishment of accommodation to support complex needs of a service user.	£60,000.00	Children's	This waiver is for refurbishment of accommodation to support the complex needs of a service user.	<b>Approved</b> – due to urgency and complexity of service user needs.
16	FR314	Financial arrangement for Development Corporation Delivery Team	£25,760.00	Place	To continue with the investment for the delivery team of the Development Corporation.	<b>Rejected - Retrospective</b>
17	FR315	Use of specialist deaf blind care provider as a one-off provision for a specific service user for personal care needs.	£28,155.60	Adults	Use of specialist deaf blind care provider as a one-off provision for a specific service user for personal care needs.	<b>Rejected</b> - Retrospective waiver and possible compliant routes to commission the service needs to be explored.
18	FR316	Procurement of several urgently required services on behalf of the Midlands Engine. These services were being procured by Nottingham City Council as the accountable body, but they have been unable to meet the timescales required. Funding will be	£180,000.00	Chief Executive	This is a short-term arrangement to enable existing work to carry on and therefore there is not enough time to go through a procurement process. The suppliers are not available on any direct award frameworks	<b>Approved</b> - No alternatives are available.

		transferred to NCC to enable these orders to be placed.				
19	FR317	Provision of MAPA (Management of Actual and Potential Aggression) training for social care staff	£90,000.00	Chief Executive	Procurement, in conjunction with workforce development, ran a procurement process but were unsuccessful because of the accreditation the supplier needs to have. This is the only company that can provide this service.	<b>Approved</b> -Waiver approved as no other suppliers in the market.
20	FR318	Safe Booth	£36,792.00	Children's	This Provider is the only one offering the specific requirements that support the complex needs of the service user.	<b>Approved</b> - Immediate requirement and complex needs of service user
21	FR319	Sensory Garden	£42,000.00	Adults	Direct award for the creation of a sensory garden at an adult social care provision.	<b>Rejected</b> - Other routes available to the market including a landscape framework
22	FR320	Better Care Fund Falls Bid - Otago Training	£17,640.00	Adults	Falls training is bespoke to one organisation it is therefore not possible to obtain quotations or to seek tenders in this case. Linked to BCF funding	<b>Approved</b> - No other options available
23	FR321	Service User with Complex needs	£110,262.88	Adults	All attempts at a non-bespoke service in the past have failed. It is essential service user has a stable level of care and support which is meeting their needs.	<b>Approved</b> - No alternatives available

24	FR322	Extension to contract with independent advisor on pensions board	£10,000.00	Chief Executive	Extension to enable time to complete work due to further statutory guidance regarding the operation and governance of LGPS Pension Funds having been delayed	<b>Approved</b> - Low value no alternatives
25	FR323	Speech and Language and Communication service in Children's Centres	£500,000.00	Children's	Direct Award for Speech, language and communication needs in the children's centres due to tight timescales and staff already employed by this provider.	<b>Approved</b>

## Appendix 2 – Covid-19 Waivers

<b>Project Title</b>	<b>Estimated Annual Value</b>	<b>Estimated Duration</b>	<b>Comments</b>	<b>Category</b>	<b>Date</b>
Insurance for Direct Payments	£5,000	6 months	To speed up the allocation of Direct Payments so service user can leave Hospital quicker, particularly due to COVID-19	ASCH	18/03/2020
Day Opportunities	£5,000,000	Review weekly	Delay in issuing tender until crisis has ended. Continue with accredited system	ASCH	17/03/2020
Unplanned Care Beds	£600,000	3 Months' notice before issuing tender	Delay in issuing tender until crisis has ended. Seek existing Provider to extend current terms.	ASCH	18/03/2020
Framework Agreement for the Supply of Software and associated Services	£2,500,000	12 months	Delay in issuing tender until crisis has ended and there is ICT staff availability as well as likelihood of getting competition in the market.	Chief Executives	23/03/2020
Translation and Interpretation Services	£25,000	12 months	To do a direct award instead of further competition for a one-year contract. There is limited supply of translators and coronavirus will affect this as well as translators being needed.	Chief Executives	26/03/2020
LAN Contract	£250,000	12 months	Delay in issuing tender until crisis has ended and there is ICT staff availability as well as likelihood of getting competition in the market.	Chief Executives	26/03/2020
27 days of work on Online MML project	£11,000	One off payment, no duration	Looked After Team Virtual Schools Contact team had to move learning sources online at last minute	Children's	31/03/2020
Bottle water Machines	£25,000	9 months	Extended to end of financial year as unlikely to receive bids at this time	Place	08/04/2020
Plumbed in Water Machines	£25,000	9 months	Extended to end of financial year as unlikely to receive bids at this time	Place	08/04/2020
Cleaning Services Turbine Centre	£36,000	Has been approved for	Service required as current cleaners have left under extenuating circumstances however centre is still operational	Place	14/04/2020

		one year maximum			
Community Support Mansfield	£18,000	1 Year	Review of service required, unable to be completed due to COVID-19. Will review before March 2021	ASCH	03/06/2020
Enforcement Officers	£950,000	1 year	Unable to complete contract in timeframe and staff furloughed at supplier due to not being used during the crisis	Place	05/06/2020
Bus Shelter maintenance	£100,000	9 months	New requirements due to COVID-19 need to be looked at before retendering	Place	05/06/2020
Voice and calls contract	£250,000	1 year	Need to review requirements due to change in technology. ICT staff busy meeting COVID-19 requirements and so tender will be delayed	Chief Executives	05/06/2020
Agency Staff to support Children's Residential Care Settings	£57,000	3 months	REED was approached, and couldn't source, therefore using another Agency to support during the time of the COVID-19 crisis	Children's	08/06/2020