

**16 October 2023****Agenda Item: 7****REPORT OF SERVICE DIRECTOR – FINANCE, INFRASTRUCTURE &  
IMPROVEMENT****FINANCIAL REGULATIONS WAIVERS 2022/23****Purpose of the Report**

1. To inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2022 - 31<sup>st</sup> March 2023.

**Information**

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 the Council's Section 151 (S151) Officer who determines whether they can be approved or not.
5. 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 as long as 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.

6. The Group Manager for Procurement presents an annual waiver report to Governance and Ethics Committee. The table below summarise the number of waivers granted in 2022/23 (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>2022-23</b>				<b>2021-22</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	6	£244,817	0	£0.00	10	£1,140,381	1	£20,000
Adult Social Care (ASC) Health & Public Protection & Public Health	8	£1,097,782	0	£0.00	12	£965,261	4	£662,890
Children, Families & Cultural Services (CFCS)	6	£438,293	5	£400,793	13	£911,247	2	£129,387
Place	4	£235,411	0	£0.00	9	£193,792	2	£78,500
Schools	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>23</b>	<b>£2,016,303</b>	<b>5</b>	<b>£400,793</b>	<b>44</b>	<b>£3,210,681</b>	<b>9</b>	<b>£890,777</b>

7. The number of waivers received for 2022/23 has significantly decreased, almost half the amount of waivers have been received compared with the previous year.
8. There has been an decrease in waiver requests across all departments and a 49% decrease in waivers which were approved.
9. The spend on approved waivers only accounts to 0.3% of the total expenditure for 2022/23.

10. Category Managers continue to work with the directorates to develop Procurement Category Strategies that aids the continued reduction of waiver requests. Colleagues are becoming increasing aware of the criteria in which a waiver can be submitted which are set out in paragraph 5.
11. The Procurement team have delivered several training sessions at departmental team meetings reminding officers / commissioners of the financial regulations.
12. Section 151 Officer has briefed senior officers regarding adhering to financial regulations.
13. A recent audit confirmed the waiver process provided substantial assurance and identified strong controls over the management of expenditure with suppliers, to minimise the need for waivers from tendering. Where waivers from tendering have been required, no significant control failures have been identified. The report made some minor recommendations for improvements in administrative processes.

### **Other Options Considered**

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

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

15. This report is to inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2022 - 31<sup>st</sup> March 2023. 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**

16. 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 support the detail contained in the report Financial Regulations Waivers 2022/23 and the continued progress in keeping waivers to a minimum.

**Nigel Stevenson**

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

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

Kaj Ghattaora - Group Manager, Procurement

## **Constitutional Comments [CEH 26/09/2023]**

The report falls within the remit of Governance and Ethics Committee.

## **Financial Comments (NS 4/10/2023)**

As stated in the report, the Section 151 Officer does write to members of the Corporate Leadership Team to remind them of their responsibilities under the County Council's financial regulations, namely:

These Financial Regulations provide the framework of financial control and standards necessary to achieve the proper administration of the Council's financial affairs and are designed to safeguard the interests of both the Council and its employees. These Regulations cover the Council's main activities, its trading organisations and Pension Funds, and partnerships where the Council acts as the lead authority or where it acts as the accountable body.

Corporate Directors have delegated responsibility for the financial management of their services. They are responsible for ensuring that employees and consultants in their departments are both aware of and comply with these Financial Regulations and that failure to comply may result in disciplinary action.

Each Corporate Director is responsible for the observance of Financial Regulations and for compliance with the decision-making process defined in the Constitution.

Section 8 of the Financial Regulations sets out the specific regulations for commissioning and procurement of goods and works that must be adhered to.

## **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