

**28 September 2022****Agenda Item: 6****REPORT OF SERVICE DIRECTOR – FINANCE, INFRASTRUCTURE &  
IMPROVEMENT****FINANCIAL REGULATIONS WAIVERS 2021/22****Purpose of the Report**

1. To inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2021 - 31<sup>st</sup> March 2022.

**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 2021/22 (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>2021-22</b>				<b>2020-21</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	10	£1,140,381	1	£20,000	6	£1,679,710	2	£1,506,852
Adult Social Care (ASC) Health & Public Protection & Public Health	12	£965,261	4	£662,890	11	£1,162,241	0	0
Children, Families & Cultural Services (CFCS)	13	£911,247	2	£129,387	9	£895,245	1	£51,000
Place	9	£193,792	2	£78,500	1	£11,751	0	0
Schools	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>44</b>	<b>£3,210,681</b>	<b>9</b>	<b>£890,777</b>	<b>27</b>	<b>£3,748,947</b>	<b>3</b>	<b>£1,557,852</b>

7. The number of waivers received for 2021/22 has increased by 17. Although there has been a significant increase in number of waivers the approved value of the waivers was only 5% higher than 2020/21.
8. The table above highlights a number of waivers that have been rejected - 20% of the waivers were rejected in 2021/22 compared to only 11% rejected the previous year. Significant scrutiny continues to be undertaken on the reason and timing of waiver requests. If the request has not met the criteria outlined in paragraph 5, the request has been rejected.

9. There has been an increase in waiver requests across all departments. In many cases funding has been received at the last minute from central sources which has resulted in insufficient time to conduct a full tender exercise. A timelimited waiver has been granted in this case.
10. In addition, 2021 saw the Council responding to the Covid pandemic, with the Omicron variant. This has also resulted in a number of waiver requests to support the health and social care system.
11. Category Managers continue to work with the directorates to develop Procurement Category Strategies that aids the continued reduction of waiver requests.
12. The Procurement team have delivered several training sessions at departmental team meetings reminding officers / commissioners of the financial regulations.

### **Other Options Considered**

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

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

14. This report is to inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2021 - 31<sup>st</sup> March 2022. 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**

15. 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 2021/22 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 [GR 06/09/2022]**

16. Pursuant to the Nottinghamshire County Council Constitution this Committee has the delegated authority to receive and consider the recommendations contained within this report.

### **Financial Comments [SES 06/09/2022]**

17. There are no financial implications arising directly from this report.

### **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**

<b>Number</b>	<b>Ref</b>	<b>Subject</b>	<b>Value</b>	<b>Department</b>	<b>Waiver Details</b>	<b>Approval/Rejection</b>
1	<b>FR352</b>	Examination of Nottingham minerals local plan	£40,000	Place	Examination of the Nottinghamshire Minerals Local Plan by an Inspector appointed by the Planning Inspectorate, part of the statutory process to produce a local plan	Rejected - The cumulative value of the spend now requires a compliant tendering process to be undertaken.
2	<b>FR353</b>	Specialist H&S advice to secondary schools	£20,000	CEX	Specialist health and safety advice for secondary schools.	Rejected - Retrospective
3	<b>FR354</b>	EHC plan and assessments	£38,400	CFCS	Training for staff to complete statutory EHC Plans and assessments. Temporary staff to complete this work until permanent staff can be recruited.	Approved - Assured attempts have been made to recruit to fill in the gaps to provide the service, temp staff required to provide service until successful recruitment

4	<b>FR355</b>	CIPFA Subscription	£33,537	CEX	Subscription to corporate package only provider.	Approved - Historically subscriptions with CIPFA were individually managed by each department. More recently the subscriptions and spend have been consolidated to ensure we get value for money. There is no other competitive supplier in the marketplace.
5	<b>FR356</b>	PDSS	£10,000	CFCS	Enable young people to have assessments to enable them to access mainstream education	Approved - Gap in services and several children who haven't had assessments since 2019
6	<b>FR357</b>	Independent visitor service	£28,400	CFCS	Independent visitor is a volunteer who befriends a child or young person who has limited or no family.	Approved - Late decision regarding service needs means there isn't enough time before contract end, contract extended to allow work to be done.
7	<b>FR358</b>	Public Health Consultant	£57,330	ASCH	Consultant responsible for the Local Outbreak Control Plans in relation to Covid 19 due to a government announcement in May 2020.	Approved - role is key for covid response, public health have tried to recruit using numerous compliant routes and not been successful.

8	<b>FR359</b>	Covid grant scheme extension	£100,000	CFCS	Government announced a further extension to the covid voucher scheme in June 2021 to cover the summer holidays and the allocation must be spent before the end of September 2021.	Approved - Due to the provision needing to be used before the end of September 2021. Future schemes should go through the CCS Framework.
9	<b>FR360</b>	Fire wardens and First Aiders	£38,500	Place	Temporary fix for fire wardens and first aiders as NCC building reopen	Rejected - Retrospective
10	<b>FR361</b>	Emergency Hormonal Contraceptive	£59,541	ASCH	EHC provided by community pharmacies, this is a service which must be provided by local authorities since 2013.	Approved - opening this up to tender could mean less community pharmacies win the bid and therefore reducing the provision for young people across Nottinghamshire. Community Pharmacies have quality assurance built into their licences.
11	<b>FR362</b>	DRT Back office	£40,000	Place	4-year pilot for demand responsive transport back office and booking system using Rural mobility fund.	Approved - £40k pilot which will lead to a full tender if deemed a success.
12	<b>FR363</b>	FAME subscription	£45,237	CEX	Large database holding all company information both present and historical.	Approved - no other providers available for this service.

13	<b>FR364</b>	Childhood Obesity Trailblazer	£12,500	ASCH	Public Health seek to contribute part of our external grant funding to help set up and widen the network of Family Action Food clubs within Nottinghamshire	Approved - Recommend as there is no other provider other than Family Action willing and able to deliver such a specialist and bespoke service.
14	<b>FR365</b>	Support for Families	£60,000	CFCS	This project falls within the scope of the Whole Family Safeguarding Programme and supports the ambition to work with families to support them to care safely for their children	Approved for 12 months - Due to Covid-19, there has been a delay in commencing delivery therefore the request to extend the contract for a further year to demonstrate impact through sufficient data.
15	<b>FR366</b>	Specialist Equipment for children and young people	£120,000	CFCS	Suppliers of specialist, high-cost equipment for children and young people who are deaf/hearing impaired and/or blind/visually impaired.	Rejected - The cumulative value of the spend now requires a compliant tendering process to be undertaken.
16	<b>FR367</b>	Trauma Informed Practice	£45,000	CFCS		Approved - Time limited and urgent grant received that needs to be spent by March 2022
17	<b>FR368</b>	The appointment of a Consultant in Public Health using Panoramic Associates	£33,150	ASCH	Employ a consultant through Panoramic Associates to embed new domestic abuse partnership board, to work for 6 months, as REED could not supply	Rejected- Classes as retrospective



18	<b>FR369</b>	To facilitate the individual annual SLI challenge	£11,500	ASCH	EMADASS currently has a DPS framework, there are currently no suitable providers registered that meet the require experience. Consultant is part of the National ADASS associates' framework.	Approved
19	<b>FR370</b>	Use of Minster View	£65 per hour per person for 2 members of staff – required for 24 hrs per day	CFCS	Contract for the provision of staffing resources as part of a bespoke and urgent residential placement for a Nottinghamshire child-in-care, the provision for which the County Council has statutory responsibility as Corporate Parent	Approved- Unable to procure through any approved suppliers and an urgent need
20	<b>FR371</b>	Winter gritting service	£9,000	Place	Snow Clearance work from County Council Bus Stations and Bassetlaw Schools	Approved- Was put out to tender but no bids received that met the minimum requirements
21	<b>FR372</b>	School swimming kit	£9,387	CFCS	School Swimming team kit	Rejected - Retrospective
22	<b>FR373</b>	Woodland Trust	£18000 in 2021/22	Place	The provision of Nursery tree stock from UK registered plant nurseries to support the delivery of Trees for Climate planting programme, funded by a Section 31 Grant Agreement from Defra.	Approved - Offers value for money. Unlikely the team will get the discounts and the stock in time to plant during the very limited planting season.

23	<b>FR374</b>	Aptean data storage	£23,865	CEX	Storage of Complaints and Information data, following implementation of new system.	Approved - No compliant route to contract with the existing company.
24	<b>FR375</b>	Trauma Informed service	£45,000	CFCS	Service needed to support Nottinghamshire County Youth Justice Service's vision to deliver a provision leading Trauma-Informed service	Approved - Time limited and urgent grant received that needs to be spent by March 2022
25	<b>FR376</b>	Short term care home places	£505,920	ASCH	Additional capacity within interim care beds is required in order to avoid a critical incident within the health and social care system before and after December 2021. Up to 24 beds needed	Approved - There is insufficient time to conduct a tender process so providers with capacity will be approached until the maximum 24 beds is secured
26	<b>FR377</b>	Care Beds x 10	£175,840	ASCH	Additional capacity within interim care beds is required in order to avoid a critical incident within the health and social care system	Rejected - Retrospective
27	<b>FR378</b>	Care Beds x 13	£354,900	ASCH	Additional capacity within interim care beds is required in order to avoid a critical incident within the health and social care system	Rejected - Retrospective
28	<b>FR379</b>	Occupational Health Service	£876,000	CEX	Counselling referral service for OH-To cover the provision by care first pending further decisions.	Approved for 6 months whilst reviewing all OH provision

29	<b>FR380</b>	Covid coordinator	£21,000	ASCH	EMADASS currently has a DPS framework, there are currently no suitable providers registered that meet the require experience	Approved - Specific skill set and experience is required and there isn't enough time to run competitions or gain quotations for this provision.
30	<b>FR381</b>	Covid analyst	£10,500	ASCH	EMADASS currently has a DPS framework, there are currently no suitable providers registered that meet the require experience	Approved - Urgent requirement, running a further competition through the framework would cause a delay.
31	<b>FR382</b>	Analysis of the NCC pay and grading structure	£9,000	CEX	Supplier is the provider for NCC's job evaluation scheme for all staff and as such are the sole property title owner of the Hay job evaluation scheme. Seeking to undertake a comprehensive benchmarking exercise with expert analysis.	Approved - This supplier was used as part of the original NJE work and have done small pieces of work in the past. This supplier as the background knowledge of NCC and therefore will be able to provide the service within a reasonable timescale
32	<b>FR383</b>	Subscription to a corporate package of services from CIPFA	£24,318	CEX	This will be a requirement annually going forward, as there are no tendering frameworks through which these services are offered.	Approved- There is no other competitive supplier in the marketplace that can provide such

						services and therefore recommend approval of the waive
33	<b>FR384</b>	10 trainers to train teaching assistants in schools to deliver a reading intervention	£86,300	CFCS	No other providers can offer the service required due to the knowledge and experience of the Switch-On intervention required to support the project.	Approved-Central government grant for Support for Schools. Seeking 10 trainers at over £8k each. No route to market as there are only so many trainers that are fully trained. No internal capacity to undertake the work.
34	<b>FR385</b>	Care Professional Standards Academy	£99,000	ASCH	This is a new scheme, the first of its kind that professionalises the careers of individuals who work in care.	Rejected - Retrospective
35	<b>FR386</b>	REED	£130,000	ASCH	Several recruitment drives were undertaken but were largely unsuccessful	Approved
36	<b>FR387</b>	BizClick	£37,548	CEX	DCMS asked all 5G Testbed and Trial projects to promote the project deliverables via Mobile UK magazine	Approved - Due to the late provision of this funding and the time restraints on spending there is no time to do a procurement exercise. This supplier is also

						recommended by the DCMS
37	<b>FR388</b>	umlaut	£36,000	CEX	5G Testbed and Trial projects to promote project via Mobile UK magazine	Approved - Due to the late provision of this funding and the time restraints on spending there is no time to do a procurement exercise. This supplier is also recommended by Central Govt.
38	<b>FR389</b>	Pentana	£34,875	CEX	A 3-year Software as a Service (SaaS) contract at £11,625 pa.	Approved - Audit have worked with procurement to try and get a compliant route whilst still achieving best value. Because G Cloud is a catalogue framework prices are unable to be negotiated and are aimed at new customers rather than existing ones
39	<b>FR390</b>	UASC Low level	£176,750	CFCS	Specialist provider to deliver support and accommodation to Unaccompanied Asylum-seeking Children (UASC).	Approved - This waiver relates to the urgent provision of accommodation for Unaccompanied Asylum-Seeking Children
40	<b>FR391</b>	Education Endowment Fund	£192,010	CFCS	The books will be purchased directly by the schools and academies who will be from LAs across the project remit.	Approved - Timescales imposed on the original contract to provide training in schools

						means there is not time for a tender to provide the book packs.
41	<b>FR392</b>	Watercoolers	£30,000	Place	Supply and maintenance of plumbed in water coolers	Approved- urgent need for safe drinking water across sites
42	<b>FR393</b>	EAL	£28,360	Place	Provision of automated meter reading (AMR) for gas supplies on the Council's supply arrangements.	Approved - EAL are not on any frameworks or DPS's.
43	<b>FR394</b>	Intelligence development tool	£9237 (4 licences)	Place	GB Connexus IQ Investigate is used by Trading Standards and is an essential intelligence development tool.	Approved - Only provider in the market and critical intelligence tool for the running of the service.
44	<b>FR395</b>	Call Blockers	£7,931	Place	Successfully secured £7,931.03 from National Trading Standards Scams Team to purchase some call blockers	Approved- The provider has been selected as they are the only provider of call blocking units that are able to provide the data and monitoring required to ensure that unwanted

						scams calls are not able to get through
--	--	--	--	--	--	---