



**REPORT OF SERVICE DIRECTOR – FINANCE, PROCUREMENT &  
IMPROVEMENT**

**FINANCIAL REGULATIONS WAIVERS 2015/16**

**Purpose of the Report**

1. To inform the audit committee about breaches of the Council's Financial Regulations from 1<sup>st</sup> April 2015 to the 31<sup>st</sup> March 2016.
2. To inform Members about requests to waive the Financial Regulations (waivers) in the same Period (1<sup>st</sup> April 2015 - 31<sup>st</sup> March 2016).

**Information and Advice**

3. The Council's Financial Regulations set out the procedures and standards for financial management and control that must be followed by officers. Compliance with the Regulations helps to ensure that:
  - There are robust systems of financial management and control
  - The finances of the Council are safeguarded from unnecessary risk
  - The Council achieves value for money in its procurement of goods and services
4. The Council may only contract with external parties within the legal framework for local Authority procurement i.e. in accordance with the UK Public Contracts Regulations 2015, the Council's Contract Procedure Rules and, also, the European Treaty principles of transparency, equal treatment, non-discrimination, proportionality and mutual recognition.
5. 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 request a waiver to the rules. The approval of such waivers ensures compliance with the Contract Procedure Rules. The waiver process acts as a peer challenge to such requests to ensure they have a valid reason for approval.
6. Waivers of Financial Regulations are normal activity whereby individual directorates request Section 151 Officer (S151) approval to vary procedures (with a good supporting reason) e.g. request to not obtain at least three written quotes because the number of suppliers is limited. Waiver requests must be considered by S151 who will determine whether they can be approved or not. The S151 may refer any request for a waiver to the Group Manager Legal for approval.

7. Waiver requests over the value of £25k (the threshold from when tenders must be sought) have to be approved by the Group Manager for Legal Services.
8. Waivers cannot be sought if they would result in a breach of European or domestic legislation or due to insufficient planning.
9. Section 9.3 of the Financial Regulations contains rules for the selection of suppliers including the number of quotations that must be sought (up to a certain level of contract value) after which a tender must be run. Section 9.5.1.1 specifies six categories of exception where the rules for obtaining quotations or running tenders can be suspended. (see Appendix 1)
10. Financial Regulations contain a requirement for the Group Manager - Procurement to annually report all breaches and waivers of the Regulations to Members of the Audit Committee.
11. The tables below summarise the number of waivers granted in 2015/16 compared to the previous year by directorate and value, the details for those waivers are contained in appendix 2, and the second table also provides a reasoning for those waivers in line with appendix 1.

Directorate	2015-2016				2014-2015			
	Number Waivers	Total Value	No. Rejected	Value Rejected	Number Waivers	Total Value	No. Rejected	Value Rejected
Resources	11	£402,740	1	£8,000	13	£430,025	0	£0
Adult Social Care, Health & Public Protection & Public Health	11	£1,891,176	1	£270,176	7	£298,885	0	£0
Children, Families & Cultural Services	6	£322,100	1	£137,300	7	£422,752	0	£0
Place	10	£4,638,691	1	£1,251,790	4	£131,403	0	£0
Schools	2	£180,000	0	£0	0	0	0	£0
<b>TOTAL</b>	<b>40</b>	<b>£7,434,707</b>	<b>4</b>	<b>£1,667,266</b>	<b>31</b>	<b>£1,283,065</b>	<b>0</b>	<b>£0</b>

	Reasons for waivers 2015-16 (see appendix 1 for further detail)						TOTAL
	1. Valid extension of contract	2. Call off from a contract	3. Repairs to existing machinery/software	4. Protection of life or Property	5. Corporate Director decision	6. Request to suspend under 1.7 of the regs *	
Number of waivers	2	2	3	6	22	5	<b>40</b>
Number of rejected waivers			(2 rejected at £1,521,966.00)	(1 rejected at £137,300)	(1 rejected at £8,000)		
Value of waivers	£23,500	£110,450	£1,565,917	£682,300	£1,881,450	£3,171,000	<b>£7,434,707</b>

\*1.7 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 should be submitted in accordance with the approved waiver request procedure.

12. A more detailed summary of the waivers is attached at Appendix 2. The Committee are asked to consider and comment upon any of the waivers.
13. The total number of waivers has increased since last year and we have also seen an increase in the overall value. An analysis of the reasons for this increase from the previous year is concluded to be as a result of closer working relationships with the commissioners and the discovery of previously unknown projects. It is expected that 2016/17 will see a reduction in waivers as better controls and procurement planning is rolled out.
14. The largest number of high value waivers was for Place, with a significant increase in the value however it has to be noted that this can be attributed to one particular waiver that was sought in relation to a bond for approx. £3m.
15. Category management work continues with the directorates to develop procurement category strategies that will aid the continued reduction of waiver requests.

## Statutory and Policy Implications

16. 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 Audit Committee note the Financial Regulations Waivers 2015/16 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:**

Clare Winter - Group Manager, Procurement

### **Constitutional Comments (KK28.04.16)**

17. The proposal in this report is within the remit of the Audit Committee.

### **Financial Comments (SS29.04.16)**

18. There are no specific financial implications arising from the report. However, the Financial Waivers process itself is an important element of the Council's Financial Regulations, which exist to ensure that public money is safeguarded and that decisions taken by Council officers are lawful and provide value for money for local taxpayers.

### **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