

**To the Chair and Members of the  
AUDIT COMMITTEE**

**FINANCIAL AND PURCHASING & CONTRACT PROCEDURE RULES**

**EXECUTIVE SUMMARY**

1. This Report provides Members with details of Waivers and Breaches to Contract Procedure Rules (C.P.R's) together with instances where Financial Procedure Rules (F.P.R's) have not been followed.
2. It also provides details of an on-going review of commercial arrangements with suppliers with whom the council spends more than £30,000 per annum.
3. The table below identifies the number of new breaches and approved waivers recorded by each Directorate since the last Audit Report in November 2013. The specific details are summarised in Appendix 1 and 2 of this report. For the purposes of this report Public Health information is shown separately but is part of the Adults & Communities Category.

| <b>Period November 2013 to 31st March 2014</b> | <b>Breaches</b> | <b>Waivers</b> |
|--|-----------------|----------------|
| Adults & Communities                           | 0               | 5              |
| Children's & Young Peoples Services            | 1               | 4              |
| Finance & Corporate Services                   | 0               | 12             |
| Regeneration & Environment                     | 0               | 3              |
| Public Health                                  | 1               | 7              |
| <b>GRAND TOTAL</b>                             | <b>2</b>        | <b>31</b>      |

**RECOMMENDATION**

4. To note the information contained in the report, in particular for the reporting of Waivers of C.P.Rs and note actions taken to identify and rectify breaches of C.P.Rs.

**BACKGROUND**

5. The Financial Procedure Rules (F.P.R.s) and Contract Procedure Rules (C.P.R.s) were approved by Council on 21<sup>st</sup> July 2011 and updated by Council on

the 6<sup>th</sup> March 2014 to include the requirement to obtain at least 1 quotation from a Doncaster firm wherever possible.

6. The Director of Finance and Corporate Services monitors compliance with the above procedures via an update from the :
  - Internal Audit team, detailing the results of audit activity and findings;
  - Corporate Procurement team, detailing any reported waivers of C.P.R.s and instances of breach;
  - Finance management teams, who are financial advisers to service managers and directorates.

### **Financial Procedure Rules**

7. No breaches of Financial Procedure Rules are reported for the period.

### **Contract Procedure Rules (C.P.R's)**

8. C.P.R.s set the value thresholds (detailed in paragraph 8 below) where commensurate competition should be undertaken by officers to ensure that value for money is being achieved and that all tender opportunities are fairly and appropriately advertised to suppliers.
9. These thresholds are set at the Council's discretion as:
  - Under £30,000 – use of an In-house supplier, Council wide Contract framework agreement or approved list or obtain **three verbal** quotes one of which must be from a Doncaster firm where the above is not available and record these quotes in writing as evidence;
  - Between £30,000 and EU threshold currently £172,514 (for goods and services) and £4332,012m (for works) – use of an in house supplier, council wide contract, framework agreement or approved list or obtain **three written** quotes one of which must be from a Doncaster firm where the above is not available;
  - Over EU £172,514 (for goods and services) or £4,332,012m (for works) – use of an In-house supplier, Council wide Contract, framework agreement or carry out an Open, Restricted or Competitive Dialogue Tender procedure..
10. Whilst the .E.U thresholds are set within legislation and, therefore, cannot be waived, it is recognised that from time to time the discretionary thresholds within C.P.R's may be a barrier to the delivery of services and, therefore, Council officers can request that the C.P.R's are waived in specific instances. via a C.P.R. waiver report, which is approved by the Director of Finance and Corporate Services in accordance with the following permissible exemptions:
  - a. the goods, services or works are proprietary in nature (i.e. where only one supplier can supply the product or services);

- b. the contract is for goods, services or works that are required in circumstances of extreme urgency;
- c. the circumstances of the proposed procurement are covered by legislative exemptions (whether under E.U. or U.K. law);
- d. there are other circumstances that are genuinely exceptional.

## **REVIEW OF PROCUREMENT ARRANGEMENTS ABOVE £30,000**

- 11. This section of the report provides Members with details of the on-going review of procurement arrangements with suppliers above £30,000 per annum.
- 12. As previously reported, breaches arise from either the aggregation of spend with one supplier going over CPR prescribed limits, a complete absence of any identifiable contract, a failure to comply with requirements to obtain adequate competition or an extension of contract beyond its agreed term or lifetime.
- 13. It is therefore important that steps are taken to ensure breaches are identified, investigated and plans quickly put in place to rectify the position. A summary report is produced by the service manager detailing each breach and the actions required to be taken, including where necessary the decommissioning of contracts.
- 14. The Corporate Procurement Team continues to work closely with all Directorates to improve procurement generally, but to also provide assurance that arrangements are robust and compliant with CPR's. Where breaches are identified, they are recorded and appropriate procurement plans are agreed and developed if/where appropriate. It should be noted however, there is still work to be done to ensure visibility of spend and this is an on-going process.

## **Breaches to CPR**

- 15. Two breaches of CPR have been approved in the period November 2013 to 31<sup>st</sup> March 2014. One breach from the Children and Young Peoples Service and one for Public Health. The specific details of these approved breaches are set out in Appendix 2 of this report.
- 16. No further breaches have been approved in this period.

## **OPTIONS CONSIDERED**

- 17. For routine reporting of Waivers and Breaches each waiver has been examined for alternative options prior to approval of a waiver.
- 18. For the review of commercial arrangements as the council has already decided to undertake a transformation of its procurement operation, it was decided that the only appropriate option was to set the review of commercial arrangements over £30,000 within the context of this project. This avoids unnecessary costs

and duplication of effort.

## REASONS FOR RECOMMENDED OPTION

19. It is clearly important that the Council's Contract Procedure Rules are adhered to and that from a governance and procurement perspective, where breaches are identified a robust corrective plan is put in place to protect the council's commercial interests through contracts.

## IMPACT ON THE COUNCIL'S KEY OBJECTIVES

| Doncaster Priorities                               | Implications of this initiative                                 |
|--|---|
| Creating a strong, connected and inclusive economy | <i>Please see Appendix 1 for an explanation of each waiver.</i> |
| Developing stronger communities                    |   |
| Increasing and improving housing                   |   |
| Protecting and improving all our children's lives  |   |
| Improving health and support for independent lives |   |
| Tackling crime and anti-social behaviour           |   |
| Creating a cleaner and better environment          |   |

## RISKS AND ASSUMPTIONS

20. Each new waiver approved since November 2013 to end March 2014 has been identified in the attached appendices.
21. With regards to the on-going review of commercial arrangements with suppliers the risks of breach of CPRS potentially exposes the council to reputational, legal and commercial risk. The review and plans arising from it aim to remedy this and mitigate any remaining open risk.

## LEGAL IMPLICATIONS

22. There are no specific legal implications arising from this Report. However, Legal Services provide advice and assistance on the specific context of CPR Breaches and Waivers and reviewing existing commercial arrangements.

## FINANCIAL IMPLICATIONS

23. There are no specific implications within this report, with regards to waivers and breaches reported at Appendix 1 and 2, as each waiver or breach is considered on its own merits. Where financial implications arise from the wider review of

commercial arrangements with suppliers these will be reviewed on a case by case basis.

## CONSULTATION

24. This report has significant implications in terms of the following:

|                               |   |                              |  |
|-------------------------------|---|------------------------------|--|
| Procurement                   | ✓ | Crime & Disorder             |  |
| Human Resources               |   | Human Rights & Equalities    |  |
| Buildings, Land and Occupiers |   | Environment & Sustainability |  |
| ICT                           |   | Capital Programme            |  |

## BACKGROUND PAPERS

25. None

## REPORT AUTHOR & CONTRIBUTORS

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## **APPENDICES TO WAIVERS AND BREACH REPORT**

1. The attached Appendices detail approved waivers and breaches from November 2013 to 31<sup>st</sup> March 2014 and are presented to ensure transparency and to inform the Audit Committee of the level of investigation that has been undertaken by procurement and the service.

### **Waivers**

2. Attached at Appendix 1 is a list of the C.P.R. waivers together with a brief explanation of the reasons for the waiver.
3. These waivers have been reviewed and agreed either by the Assistant Director of Finance and Performance, the Director of Finance and Corporate Services or the Chief Executive (for Finance and Corporate Services Directorate).

### **Breaches**

4. All new breaches that have been identified as a result of the on-going review are attached at Appendix 2. This information gives details of the individual breaches and presents a rectification / procurement plan to address each breach.

## Approved Contract Procedure Rule Waivers

| Department                      | Value –                    | Reason  |
|---------------------------------|----------------------------|---|
| R&E<br>CPR/13/10/0001           | £11,470                    | <p>Waiver request to directly award a contract to WSP Transport Consultants for two weeks starting 11 October 2013, to enable the Council to bid for further DFT funding.</p> <p>The waiver was granted on the basis that another consultant could not produce a quality submission within the one month timescale set by the DFT without extensive pre knowledge of the scheme</p>                           |
| F&CS<br>CPR/13/08/0004          | £7900 per annum            | <p>Waiver request to directly award a contract to Bolinda Digital Ltd for licensed audio download service made available to libraries.</p> <p>The waiver was granted on the basis that no other supplier is able to provide the exact range of content and associated technologies as provided through this service.</p>  |
| F&CS<br>CPR/13/10/0002          | £2500 per training session | <p>Waiver request to directly award a contract to “Public I” to provide training to a number of Councillors on the “Networked Councillor”.</p> <p>Waiver granted on the basis that Public i is the only firm able to meet the Council’s requirement as the networked Councillor concept has been developed by them following their research undertaken in association with the East of England Employers.</p> |
| Public Health<br>CPR/13/11/0001 | £7500 per Qtr.             | <p>Waiver request to directly award a contract to Doncaster Bassetlaw Hospital to provide screening, data collection and referral services to individual who present at the accident and emergency department with alcohol related issues.</p> <p>The waiver was granted to enable continuation of the service during the last quarter of the financial year 2013/14.</p>                                     |
| A&C<br>CPR/13/10/0008           | £160,220 over 3 years      | <p>Waiver request to directly award a three contract to ADL for the provision of their ADL Smartcare web based tool.</p> <p>The waiver was granted as the Product being the offered by the ADL is currently the only OT assessment system on the market.</p>  |
| CYPS<br>CPR/13/09/0008          | £27,000 over 24 months     | <p>Waiver request to extend the current contract with Cognisoft to March 2016.</p> <p>Waiver granted to enable the Council to continue to deliver its statutory requirement of reporting to the Department of Education 13-19 NEETS participation data.</p>   |
| A&C<br>CPR/13/12/0001           | £82,469                    | <p>Waiver request to directly award to the M25 Housing and Support Group for four months (December 2013 – March 2014).</p> <p>The waiver was granted to enable the provider to deliver additional Winter Night,</p>   |

|                                 |  |   |
|---------------------------------|--|---|
|                                 |  | Provision through an existing purpose built and equipped homeless hostel with skilled, experienced staff.   |
| CYPS<br>CPR/13/11/0007          | £22,002<br>over 3<br>years                                   | <p>Waiver request to directly award a contract to First Media for the provision of licensing for the Connectu2, Switchdon and Movedon websites for a period of three years from April 2013 to March 2016 following the transfer of connexion type service to the Council.</p> <p>The waiver was granted to ensure continued delivery of services and accessibility to young people.</p>   |
| F&CS<br>CPR/13/11/0009          | £36,169  | <p>Waiver request to purchase a 12 month software license from February 2014 for Active Navigations Content Cleansing Software through the Councils Info@work contract supplied by Northgate.</p> <p>The waiver was granted on the basis that this is a proprietary item.</p>   |
| F&CS<br>CPR/13/12/0002          | £48,000<br>over 3<br>years<br>(including<br>extension)       | <p>Waiver request to directly award a three year contract with a 12 month extension period from December 2013 to Velos IT.</p> <p>The waiver was granted to support the Council to maintain legacy data associated with the previous One World Financial System</p>   |
| A&C<br>CPR-13-10-0010           | £22,000  | <p>Waiver request to award a direct 6 month contract to Me-Learning to provide bespoke training to Social Care Works in order for them to utilise the upgraded Case Management System. ...This development fell outside of the original tender, both in terms of timing and scope of the new care management system.</p> <p>The waiver was granted as the learning module provider owns the rights to the case management system on-line training programme and no other provider would have access to the programme, software or training provision.</p> |
| Public Health<br>CPR-13-10-0007 | £70,000  | <p>Waiver request to enable all GP practices in Doncaster to have the opportunity to offer an alcohol screening and treatment service in a general practice setting, up to March 2014.</p> <p>The waiver was granted to enable continuation of the service during the last quarter of the financial year 2013/14.</p>   |
| CYPS<br>CPR/13/11/0006          | £15,500<br>per annum   | <p>Waiver request to directly award a 12 month contract with the provision to extend to the National Consortium of Examination Results (NCER) from April 2013 to provide educational performance data analysis system's for Local Authorities in England</p> <p>The waiver was granted as there are no other companies that provide this service.</p>   |
| A&C<br>CPR/13/09/0009           | £8,580.00<br>over three<br>years<br>(including<br>extension) | <p>Waiver request to enter into a new 2 year contract with 12 month extension period with Paloma Systems Ltd for the provision of a web based case management system for the Independent Domestic violence Advocacy Service.</p> <p>The waiver was granted to enable the continued use of the existing case management system following the transfer of responsibility for payment of the annual cost from South Yorkshire Police to the Local Authority.</p>   |



|                                 |   |   |
|---------------------------------|---|---|
| F&CS<br>CPR-13-12-0006          | £38,000   | <p>Waiver request to directly award the contract for electoral registration printing requirements for the Council including, electoral registration, postal vote refresh and future forms to be introduced with individual electoral registration to Adare for 24 months (December 2013 to December 2015).</p> <p>The waiver was granted on the basis that the North East Purchasing Organisation (NEPO) Framework Agreement for electoral printing and stationery was used.</p>  |
| F&CS<br>CPR/13/12/0005          | £32,595 over three years.                               | <p>Waiver request to directly award and enter into a new three contract (December 2013 – December 2016) to Fiscal Technologies for the provision of their AP Forensics software package to enable the identification and prevention of duplicate and mis-payments. Over the previous three years £423,548 duplicate payments were identified.</p> <p>The waiver was granted on the basis that this is a proprietary system in nature with no alternative available on the market place. There are services available to help to recover overpayments after the event, but the preventative nature of this software is unique.</p> |
| Public Health<br>CPR/13/11/0008 | £2,520  | <p>Waiver request to purchase 20 healthy relationships resource packs for the 17 secondary schools, Doncaster college, Doncaster's sexual exploitation nurse and the public health team.</p> <p>The waiver was granted as research has shown that this is the only product available on the market that meets the needs of Doncaster schools. The alternative would have been to commission this resource from scratch; including sourcing material, actors and a film company, which would not be cost effective.</p>  |
| Public Health<br>CPR/13/10/0004 | £100,000 per annum                                      | <p>Waiver request to allow Public Health to vary their current contracts with RDASH and GP surgeries to pay for the cost of HIV testing all new attendances at the Contraception and Sexual Health Clinic and to pay for the cost of HIV Testing all new registrations at GP surgeries.</p> <p>The waiver granted enabled the service to be re-specified during the last quarter of the financial year 2013/14.</p>   |
| F&CS<br>CPR-13-10-0005          | No cost to DMBC as the recipient pays the bailiffs cost | <p>Waiver request to further extend for 6 months (April 2014) the Council's Bailiffs Framework Agreement.</p> <p>The waiver was granted to ensure continuity of service for Revenue and Benefits while protecting clients and DMBC under the current controls on the DMBC Contract.</p>   |
| F&CS<br>CPR/13/12/0004          | £49,774   | <p>Waiver request to directly award a contract to IDDK for additional works from the existing contractor for the diversion of the fibre network around Copley Road / Nether Hall Computer Centre (consequence of building decommission &amp; disposal) and installation of additional security equipment and the supply of fibre maintenance.</p> <p>The waiver was granted to enable the additional works to be undertaken .The Council is looking to tender for the provision of fibre maintenance and support services during 2014.</p>  |
| F&CS                            |   |   |

|                                 |  |   |
|---------------------------------|--|---|
| CPR/14/01/0002                  | £36,348 over 6 years (including extensions)  | <p>Waiver request to directly award a contract to JC Applications development for 4 years from (February 2014 – February 2018) with the option to extend up to a further 24 months for the provision of an Insurance Claims Handling and Reporting System</p> <p>The waiver was granted on the basis that the current claims system can be retained as this was originally funded by the Council.</p>   |
| F&CS<br>CPR/14/01/0004          | £22,104                                      | <p>Waiver request to enter in to a further 12 month contract with Civica for continued hosting of the council main internet site.</p> <p>The waiver was granted to allow time to develop an internally hosted solution offering the authority financial and flexible benefits</p>   |
| CYPS<br>CPR-14-01-0003          | £25,000                                      | <p>Waiver request to directly award a 21 week contract (January 2014 – May 2014) to Hayley Taylor Employment Services Ltd for the delivery of a Routes to Success bespoke programme for children in care.</p> <p>The waiver was granted on the basis that this is a proprietary item following the success and review of the first pilot programme previously awarded by tender to Hayley Taylor Employment Services Ltd.</p>   |
| F&CS<br>CPR-13-12-0003          | £9,367 per annum                             | <p>Waiver request to directly award a contract to Tricostar LLP and Sage UK for the upgrade including additional a services for the current legal services Timebase Case Management System and Sage CRM to enable the software to run on the SQL 2008 server.</p> <p>The waiver was granted on the basis that this is a proprietary item</p>  |
| R&E<br>CPR/13/11/0010           | £77,053.00                                   | <p>Waiver request to directly award a 6 month contract to Imtech Traffic &amp; infra UK Limited to upgrade their urban traffic control software and traffic control common database to the latest standards.</p> <p>The waiver was granted on the basis that this is a proprietary item</p>   |
| Public Health<br>CPR/14/01/0005 | £10.54m per annum                            | <p>Waiver request to allow the Council to enter into new 12 month contracts, to commence on 1st April 2014, with a range of existing suppliers whose contracts will expire on 31st March 2014.</p> <p>The waiver was granted to ensure the length of contracts coincide with the procurement forward plan agreed by Cabinet, and to give sufficient time to reprocure all public health services with minimum risks to public health services. This is consistent with the approach taken by other councils around the country.</p> |
| F&CS<br>CPR/14/02/0003          | £9,500 of three years (including extensions) | <p>Waiver request to directly award a 12 month contract with two 12 month extension to Parsec Telesystems to develop bespoke reporting software for the Cisco VOIP telephone and Cisco Jabber system</p> <p>The waiver was granted to support the Cisco system which enables managers to check that staff are logging onto either a phone or Cisco Jabber each day as required by the Council.</p>  |
| Public Health<br>CPR/14/02/0004 | £2000  | <p>Waiver request to vary the community pharmacies contracts and the CASH service for a period of 6 months to undertake a pilot to enhance the Emergency Hormonal</p>   |

|                                 |          |  |
|---------------------------------|----------|--|
|                                 |          | <p>Contraception service to include chlamydia testing kits and the provision of condoms:</p> <p>The waiver was granted for this pilot to be undertaken with locally based pharmacies.</p>  |
| Public Health<br>CPR-14-03-0005 | £2790.00 | <p>Waiver request to directly award a contract to White's Print for the printing of the Diabetes Patient Held Record</p> <p>The waiver was granted on the basis that White's Print is the original designers of the current record used by diabetes multi-disciplinary team.</p>   |
| A&CS<br>CPR-14-03-0006          | £4000    | <p>Waiver request to directly award a contract to David Hunter to chair a Domestic Homicide Review in line with statutory guidance. David Hunter was previously appointed following a quotation exercise in December 2013 to chair a Domestic Homicide Review that started in January 2014 and was found to be the best qualified and lost cost consultant.</p> <p>The waiver was granted as the cost of this contract is in keeping with the original quotation.</p>                                |
| R&E<br>CPR-14-03-0008           | £10,000  | <p>Waiver request to directly award a contract to Cundall Johnston and Partners LLP to carry out an independent forensic investigation to establish the cause of the major power surge at the Civic Office causing significant damage to electrical infrastructure and IT equipment within the building resulting in a full scale evacuation and subsequent closure of the premises.</p> <p>The waiver was granted on the basis that Cundall Johnston and Partners LLP are experts in this area.</p> |

**REPORTED BREACHES OF  
CONTRACT PROCEDURE RULES AS AT APRIL 2014**

| Directorate   | Description   | Aggregated Breach Value | Planned new Service Start Date | Procurement Status   |
|---------------|---|-------------------------|--------------------------------|--|
| CYPS          | Direct award of a contract to John Smale (consultant) without competition or exemption from Contract Procedure Rules to develop a file auditing system and lead a small team of auditors in completing a significant number of case reviews to a high standard, identifying both changes needed in individual case management and aggregated lessons for the service. | £24,000                 | 01/01/2014                     | Waiver is awaiting authorisation   |
| Public Health | The current Child and Adolescent Mental Health Service (CAMHS) Doncaster contract provided by RDASH was out contract with no extension periods available. The contract was subsequently extended till April 15 without a waiver from contract procedure rules being sought.   | £601,168                |                                | <p>The Contract with RDASH has been extended from 30<sup>th</sup> September 2013 for up to a 12mth period to enable CYPS and Doncaster CCG to retender the current service. During this period the Key Performance Indicators set out in the contract are being sharpened, with a saving on the current contract being negotiated.</p> <p>The breach, to CPR, was granted as this is an essential service providing vital mental health support services in Doncaster.</p> |