

**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) for the period 1st July to 30th September 2014,
2. The table below identifies the number of new waivers and breaches recorded by each Directorate since the last audit report presented in July. The details of each waiver and breach are summarised in the appendices of this report.

Period 1st July 2014 – 30th September 2014	Breaches	Waivers
Adults & Communities	4	0
Children's & Young Peoples Services	0	2
Finance & Corporate Services	0	1
Regeneration & Environment	0	4
Public Health	0	1
GRAND TOTAL	4	8

RECOMMENDATION

3. To note the information and actions contained in this report, regarding waivers and breaches of C.P.R's

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

5. There are no specific implications within this report, with regards to waivers or breaches.

BACKGROUND

6. The Director of Finance and Corporate Services monitors compliance with Contract Procedure Rules (C.P.R.s) via an update from the Corporate Procurement team, detailing any reported waivers of C.P.R.s and instances of breach

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

7. C.P.R.s set various 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.
8. The thresholds within C.P.R.s are set at the Council's discretion as:
 - Under £30,000 – use of an in-house supplier, Council wide contract (these have been established centrally or nationally for everyone to use), 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 £4,332,012m (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. This includes what are known as Part B Services, which generally covers many of the care based services, where the OJEU regulations are less stringent allowing for more flexibility in approach.
9. Whilst the EU thresholds are set within the legislation and, therefore, cannot be waived, it is recognised that from time to discretionary thresholds within C.P.R's may be a barrier to the delivery of the service 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 EU or UK. law);

- d. there are other circumstances that are genuinely exceptional.

Waivers to CPR's

10. Eight waivers to CPR's have been approved this period (see appendix 1 for the detail of each waiver).
11. The waivers detailed in this report 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 to CPR's

12. Breaches arise from either the aggregation of spend with one supplier going over pre 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 for each breach and detail actions required to be taken, including where necessary the decommissioning of contracts.
14. Four breaches to CPR's have been reported this period (see detail of each breach at appendix 2).
15. In addition, a number of breaches have recently been identified in Regeneration and Environment, covering services, works and goods. We are currently working with the service area to quantify the breaches and put in place an action plan to remedy them.

REVIEW OF PROCUREMENT ARRANGEMENTS ABOVE £30,000

16. 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 waivers and breaches are identified, they are recorded and appropriate procurement plans are agreed and developed if/where appropriate.

OPTIONS CONSIDERED

17. Each waiver is examined and where appropriate challenged for alternative options prior to approval.

REASONS FOR RECOMMENDED OPTION

18. 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

	Priority	Implications
	<p>We will support a strong economy where businesses can locate, grow and employ local people.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p><i>Please see Appendix 1 for an explanation of each waiver.</i></p>
	<p>We will help people to live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>We will make Doncaster a better place to live, with cleaner, more sustainable communities.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>We will support all families to thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>We will deliver modern value for money services.</p>	
	<p>We will provide strong leadership and governance, working in partnership.</p>	

RISKS AND ASSUMPTIONS

19. With regards to the ongoing review of commercial arrangements with suppliers the risks of breach of CPR'S potentially exposes the Council to reputational, legal and commercial risk. The review and plans arising from its aim to remedy this and mitigate any remaining open risk.

LEGAL IMPLICATIONS

20. 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

21. There are no specific implications within this report, 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.

EQUALITY IMPLICATIONS

22. The author of each waiver would need to consider all equality implications.

CONSULTATION

23. 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

24. None

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APPENDIX 1

WAIVERS

This appendix details the C.P.R. waivers that have been agreed since the last report covering the period 1st July to the end of September 2014, together with a brief explanation of the reasons for the waiver.

Department	Value	Reason
CYPS CPR/14/05/0005	£27,700	<p>Waiver request to directly award a contract to Capita One to enable childcare providers, delivering early education places to 2,3,4 year olds, to submit their funding claim data to the Council electronically i.e. rather than via a paper data return.</p> <p>The waiver was granted on the basis that Capita One is compatible with the Councils existing system used by the Early Years Funding Team and across the Council to collect and store child education data.</p>
R&E CPR/14/06/0001	£5,250	<p>The waiver request related to the integration work necessary for the display of traffic and travel information on the Elign Web Site.</p> <p>The waiver was granted on the basis that the website was propriety to Elign.</p>
CYPS CPR/14/06/0005	£33,465	<p>Waiver request to directly award a contract to Angel Solutions, the contracted software developer for National Consortium of Examination Results (NCER) for their 'Pendulum' product. This product would enable the Council to streamline the recording of visits and contracts with schools as well as monitor School Improvement risk assessment and Ofsted outcomes.</p> <p>The waiver was granted on the basis that 'Pendulum' is a propriety product.</p>
R&E CPR/14/06/0004	£120,000	<p>Waiver requested to directly award a contract to AECOM Ltd to utilise the Highways Agency's South Yorkshire Strategic Traffic Model (SYSTEM) developed and maintain by AECOM Ltd.</p> <p>The waiver was granted as Highway's Agency SYSTEM is propriety to AECOM Ltd.</p>
Public Health CPR/14/07/0007	£25,200	<p>Waiver requested to purchase 400 extra vouchers for a Slimming World scheme to ensure that there are sufficient vouchers available to the end of the current contract i.e. until the newly commissioned Tier 2 Weight Management service commences in April 2015.</p> <p>The waiver was granted to enable the continuation of the current service provision enabling the referral of patients to weight loss groups and increase the capacity to deliver weight management interventions across Doncaster.</p>

F&CS CPR/14/08/0001	£20,720	<p>Waiver request to extend the current contract with SDL Tridion Ltd, for 12 months to enable continuation of the Councils current website while implementation of the Councils new website is carried out.</p> <p>The waiver was granted to enable the continuation of current website service provision, pending the implementation of the new website.</p>
R&E CPR/14/09/0001	£4,750	<p>Waiver request to directly award a training contract to the Institute of Lighting Professionals (ILP).</p> <p>The Waiver was granted to enable the Council to comply with statutory regulations as all our Street Lighting Designers are required to be members of the Institute of Street Lighting Professionals (ILP)</p>
R&E CPR/14/07/0006	£150,000	<p>Waiver request to directly award a contract to Harlaxton Engineering Services Ltd to install the rising main at the inland port and the street lighting and Northern Power grid for the Rossington link section of the FARRRS scheme.</p> <p>The waiver was granted on the basis that the awarding of the contract to Harlaxton Engineering Services Ltd would enable the coordination of complex works to be carried out simultaneously whilst installing ducting.</p>

APPENDIX 2**BREACHES**

This appendix details the C.P.R. breaches that have been identified to the end of September 2014, together with a brief explanation of the reasons for the breach.

Directorate	Description	Annual Breach Value	Commissioning Intentions	Procurement Status
Adults and Health and Wellbeing	Older People's alarm only and scheme managed support with alarm (various suppliers and various schemes)	£232,099	Removal of SP funding being explored as part of wider review of alarm provision.	Awaiting outcome of review
Adults and Health and Wellbeing	Care and Support Contract for Charles Court Extra Housing	£227,940	Review of extra care provision underway	Awaiting outcome of review
Adults and Health and Wellbeing	Day Care	£4,934	Day Care provision based upon individuals assessed need	Out of area placement contract to be reissued (as the previous time limited contract for this placement has expired).
Adults and Health and Wellbeing	Keyring (Two schemes) - Bentley and Rossington	£75,012	Service review to be undertaken and future commissioning options determined.	Awaiting outcome of review