



# Doncaster Council

## Report

Date: 27th October 2022

To the Chair and Members of the  
AUDIT COMMITTEE

### BREACHES AND WAIVERS TO THE COUNCIL'S CONTRACT PROCEDURE RULES (CPRs)

Relevant Cabinet Member(s)	Wards Affected	Key Decision
		No

### EXECUTIVE SUMMARY

1. This report provides Members with details of all the waivers and breaches to the Contract Procedure Rules (CPR's) for the period **1<sup>st</sup> March 2022** to the **31<sup>st</sup> August 2022**.
2. The table below summarises the number of new waivers and breaches recorded for each Directorate since the last audit report presented in April 2022 and the one before that in October 2021. The details of each waiver and breach are summarised in the appendices to this report.

Directorate	1 <sup>st</sup> Mar 22 to 31 <sup>st</sup> Aug 22		1 <sup>st</sup> Sep 21 to 28 <sup>th</sup> Feb 22		1 <sup>st</sup> Mar 21 to 31 <sup>st</sup> Aug 21	
	Breaches	Waivers	Breaches	Waivers	Breaches	Waivers
AHW	0	4	0	6	0	11
CYPF	0	2	1	2	2	2
CR	4	5	0	4	0	1
E&E	2	6	1	2	1	4
<b>GRAND TOTAL</b>	<b>6</b>	<b>17</b>	<b>2</b>	<b>14</b>	<b>3</b>	<b>18</b>
% Waivers versus Contracts Awarded	<b>5.57%</b>		<b>2.22%</b>		<b>8.1%</b>	
% Value of Waivers versus Value Contracts Awarded	<b>2.52%</b>		<b>4.75%</b>		<b>1.9%</b>	

## EXEMPT REPORT

3. This report is not exempt.

## RECOMMENDATIONS

4. To note the waivers and breaches recorded for the period between the **1<sup>st</sup> March 2022 and the 31<sup>st</sup> August 2022**.
5. To note work undertaken by the Strategic Procurement Team (SPT) to ensure compliance and deliver services.

## WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

6. There are no specific implications within this report.

## BACKGROUND

7. The Monitoring Officer (MO) monitored compliance with the CPRs for the period covered by this report.
8. Waivers are only granted when the rationale for a direct award is clearly demonstrated and in accordance with the CPR's.
9. Breaches are detected through periodic reporting via the Council's spend analysis system.
10. The Strategic Procurement Team (SPT) continue to have significant workloads because of multiple factors such as the economic climate and supply chain issues.
11. The number of approved waivers has increased from **14** to **17** but less than the number reported in October 2021.
12. There are still high levels of compliance to the CPR's and SPT continue to be proactive and supportive to help alleviate increased pressures with regular reporting and attendance at key stakeholder meetings.

## CONTRACT PROCEDURE RULES (CPR'S)

13. The Council's CPR's state the following thresholds where commensurate competition should be undertaken by officers to ensure value for money: -
  - **Up to £25,000** - use of an in-house supplier, Council wide contract, third party framework agreement or direct award, where possible, to a Doncaster based organisation.
  - **Between £25,000 and £177,898** – use of an in-house supplier, Council wide contract, third party framework agreement or obtain a minimum of three formal quotes one of which should be from a Doncaster based organisation.

- **Between £177,898 and £552,950 (Light Touch Regime (LTR) Services) or £4,447,488 (works)** - use of an in-house supplier, Council wide contract, third party framework agreement or obtain a minimum of three tenders one of which should be from a Doncaster based organisation
- **Over £177,898 (Goods/Services) or £552,950 (LTR Services) or £4,447,488 (Works)** - use of an in-house supplier, council wide contract, third party framework agreement or carry out a public contract regulations compliant tender process.

14. There have been **six** new breaches and **four** resolved breaches. There are **zero** unresolved breaches.

15. **Appendix 1** shows the details of the **new, unresolved and resolved** breaches for this period.

16. Public procurement law thresholds are set and can only be waived if the award meets strict criteria set out in the legislation. In addition to this the Council recognise that discretionary thresholds within the CPR's may be a barrier to the delivery of services and, therefore, Council Officers can request that the CPR's are waived in specific instances, in accordance with the following permissible exemptions.

<b>Category</b>	<b>Description</b>
<b>1</b>	Where the Director is able to demonstrate that only one specialist firm is able to meet the requirement
<b>2</b>	A contract to be placed as an emergency solution only where the Director is able to demonstrate immediate risk to persons or property or serious disruption to Council Services
<b>3</b>	To allow for the safe exit from a contract or to decommission
<b>4</b>	Forms part of a wider strategic programme of works

### **Breaches to CPR's**

17. Breaches arise from either the aggregation of spend 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.

### **Update to Breaches previously reported**

18. In **April 2022**, there were **two** new breaches of the CPR's reported to Audit Committee as well as updates on **two** existing unresolved breaches and **four** resolved breaches.

### **Waivers to CPR's**

19. **Seventeen** waivers to CPR's have been approved for this six-month period, which has increased from the last report in April 2022 where there were **fourteen**. The number and contract value of waivers granted against the number of contracts awarded for this period are shown in **Appendix 3**.
20. The waivers detailed in this report have been reviewed and agreed by either the MO or the CFO (for waivers linked to the Legal and Democratic Services Department).

## REVIEW OF PROCUREMENT ARRANGEMENTS ABOVE £25,000

21. SPT (Strategic Procurement Team) continue to work closely with all Directorates to improve procurement practices and provide assurance that arrangements are robust and compliant with the CPR's. Officers provide regular updates to stakeholders on contract registers, procurement plans and spend analysis to ensure transparency and movement to ensure delivery of projects within timescales. Procurement Forward Planning Reports, for a period of 18 months, are presented quarterly to departments across the council.
22. A CPR Training Programme continues to be delivered.

## OPTIONS CONSIDERED

23. Each waiver is examined through a robust process and, where appropriate, challenged for alternative options prior to approval. This can be at various stages of the process. Each waiver is approved by the Head of Procurement and escalated for authorisation to the MO or CFO.

## REASONS FOR RECOMMENDED OPTION

24. It is important that the Council's CPRs be adhered to. Where breaches are identified, a corrective plan is formed and monitored by a SPT Officer in liaison with the service area.

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

25.

	<b>Outcomes</b>	<b>Implications</b>
	<p><b>Doncaster Working:</b> Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> <li>• Better access to good fulfilling work</li> <li>• Doncaster businesses are supported to flourish</li> <li>• Inward Investment</li> </ul>	<p>The CPR's state that quotations/tenders should be sought from at least one Doncaster based company. This is to encourage local spend where possible. SPT work closely with Business Doncaster.</p>
	<p><b>Doncaster Living:</b> Our vision is for Doncaster's</p>	<p>Effective procurement</p>

<p>people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> <li>• The town centres are the beating heart of Doncaster</li> <li>• More people can live in a good quality, affordable home</li> <li>• Healthy and Vibrant Communities through Physical Activity and Sport</li> <li>• Everyone takes responsibility for keeping Doncaster Clean</li> <li>• Building on our cultural, artistic and sporting heritage</li> </ul>	<p>governance ensures best value is achieved from the budgets available.</p>
<p><b>Doncaster Learning:</b> Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> <li>• Every child has life-changing learning experiences within and beyond school</li> <li>• Many more great teachers work in Doncaster Schools that are good or better</li> <li>• Learning in Doncaster prepares young people for the world of work</li> </ul>	<p>Social value is considered in contracting activity. The CPRs state that for any procurement project above £177,898 must have a minimum of 10% weighting factored into the overall evaluation award criteria.</p>
<p><b>Doncaster Caring:</b> Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> <li>• Children have the best start in life</li> <li>• Vulnerable families and individuals have support from someone they trust</li> <li>• Older people can live well and independently in their own home</li> </ul>	<p>Effective procurement mitigates the risks posed by contracting and ensures robust contracts.</p>
<p><b>Connected Council:</b></p> <ul style="list-style-type: none"> <li>• A modern, efficient and flexible workforce</li> <li>• Modern, accessible customer interactions</li> <li>• Operating within our resources and delivering value for money</li> <li>• A co-ordinated, whole person, whole life focus on the needs and aspirations of residents</li> <li>• Building community resilience and self-reliance by connecting community assets and strengths</li> <li>• Working with our partners and residents to provide effective leadership and governance</li> </ul>	<p>Effective procurement ensures best value, effective partnership working and robust specifications to attain the best from the markets.</p> <p>SPT continue to drive adherence to governance.</p>

## RISKS AND ASSUMPTIONS

26. Contractual arrangements with suppliers and breaches to the CPR's expose the Council to reputational, financial, legal and commercial risks. Compliance monitoring of the CPR's seek to counter and address these risks.

27. The Council are experiencing significant challenges and SPT are supporting service areas ensuring contracting projects are in accordance with the CPR's.

#### **LEGAL IMPLICATIONS [Officer Initials... NJD... Date.....5th October 2022**

28. There are no specific legal implications arising from this report. Legal advice has been provided on the individual waivers and continued legal support will be provided to the service areas in relation to these matters.

#### **FINANCIAL IMPLICATIONS [Officer Initials...PH..... Date...05/10/22.....]**

29. There are no specific financial implications attached to this report. Each individual breach and waiver will consider the specific implications for that action. It is important to note that breaches to Contract Procedure Rules risk the Council overspending as checks for sufficient budget being available is not guaranteed to take place.

#### **HUMAN RESOURCES IMPLICATIONS [Officer Initials SH Date 05/10/22.....]**

30. There are no specific HR implications arising from this report.

#### **TECHNOLOGY IMPLICATIONS [Officer Initials... PW Date 04/10/22 .....]**

31. There are no specific technology implications in relation to this report. SPT continues to consult with Digital & ICT in relation to breaches and CPR waivers involving the procurement of technology to ensure that the Technology Governance Board (TGB) has considered these, where applicable.

#### **EQUALITY IMPLICATIONS [Officer Initials HW Date 16/09/21]**

32. There are no direct equality implications associated with this report and a Due Regards Statement is not required.

#### **CONSULTATION**

33. There has been consultation with the various directorates and applicable officers.

#### **BACKGROUND PAPERS**

34. None.

#### **GLOSSARY OF ACRONYMS AND ABBREVIATIONS**

Adults, Health & Wellbeing (AHW)  
Contract Procedure Rules (CPR's)  
Chief Financial Officer (CFO)  
Corporate Resources (CR)  
Economy & Environment (E&E)  
Information Communications Team (ICT)

Light Touch Regime (LTR)  
Children, Young People & Families (CYPF)  
Monitoring Officer (MO)  
Strategic Procurement Team (SPT)  
Technology Governance Board (TGB)

## **REPORT AUTHOR & CONTRIBUTORS**

Holly Wilson, Head of Procurement

☐☐01302 737664 ☐☐holly.wilson@doncaster.gov.uk

**Scott Fawcus**

**Monitoring Officer**

**& Assistant Director of Legal & Democratic Services**

## BREACHES

- **New** CPR breaches that have been identified between the **1<sup>st</sup> March 2022 to the 31<sup>st</sup> August 2022**
- **Unresolved** breaches reported to the Audit Committee previously and;
- **Resolved** breaches reported previously

No	Directorate	Status New Unresolved Resolved	Initial Date Reported	Contract Description	Value	Reason for breach	Proposed action to be / has been taken in relation to the breach	Timescale for resolution
1.0	CYPF	Resolved	Apr 22	Castle Hills Drainage	£61,094	Failed to obtain 3 quotes	<p><b>Oct 2022 Note</b> – Resolved</p> <p><b>Apr 2022 Note</b> – These works have been undertaken and the officers involved failed to obtain 3 quotes, they believed a waiver was in place to cover this purchase, as it was emergency works. Officers advised on their obligations as per the CPR's and further training will be given.</p>	Apr 22
1.1	CYPF	Resolved	Apr 21	Archive Offsite Storage	£39,700	Contract expired	<p><b>Oct 2022 Note</b> – Resolved. Contract ended; archives fully taken back into the Council asset.</p> <p><b>Apr 2022 Note</b> – Movement of the archives to Chequer Road has begun. Racking installation completed on the 25<sup>th</sup> Mar 22. The movement has to be managed within the health and safety requirements where two teams cannot be present in one space. Lift maintenance is taking place at one of the storage providers so extraction of material is delayed. Existing plan, considering the issues mentioned above will result in the contract with the storage providers ending on the 3<sup>rd</sup> June 22.</p> <p><b>Oct 2021 Note</b> – The movement of the archives are dependent on the development of the old museum site. There have been delays in moving this project forward because of complexities linked to the site.</p> <ol style="list-style-type: none"> <li>1. Enquiries by Heritage England as to the historical importance of the site</li> <li>2. Issues with the fabric of the building resulting in significant works and milestones to be achieved before movement can be commenced</li> <li>3. Review of the allocated budget due to rising material costs – resulting in a need to redesign to bring costs down</li> <li>4. The need to ensure the building meets the National Archives Standards</li> </ol> <p>The Internal Audit Team have been involved in the project group. The plan is due to be finalised for moving the archives back and signed off by the 18<sup>th</sup> October, with the date for completion being the 28<sup>th</sup> March 22.</p> <p>Due to the above, the existing breached contracts will need to be extended to continue to store the archives until the building is developed to the required standard. This will continue as a breach to ensure close monitoring to obtain the resolution.</p> <p><b>Apr 2021 Note</b> – Movement of archives into the old museum site. Retrospective</p>	Revised: Jun 22  Apr 22  Oct 21



							waiver requested and rejected. Project plan agreed with the service area to enable a route to compliance. Capital investment underway.	
1.2	CYPF	Resolved	Apr 21	Archive Offsite Storage	£83,814	Contract expired	<p><b>Oct 2022 Note</b> – Resolved. Contract ended; archives fully taken back into the Council asset.</p> <p><b>Apr 2022 Note:</b> As per 1.2 – these breaches are interdependent.</p> <p><b>Oct 2021 Note</b> – As per 1.2 – these breaches are interdependent.</p> <p><b>Apr 2021 Note</b> – Movement of archives into the old museum site. Retrospective waiver requested and rejected. Project plan agreed with the service area to enable a route to compliance. Capital investment underway.</p>	<p>Revised: Jun 2022</p> <p>Apr 2022</p> <p>Oct 2021</p>
1.3	E&E	Resolved	Apr 22	Noise Monitoring Equipment	£39,213	Failed to obtain 3 quotes	<b>Apr 22 Note</b> – Officers involved failed to obtain 3 quotations for this purchase. Issue raised and training to be given.	
1.4	CR	New	May 22	Catering Equipment	£88,295	Contract expired	<b>Oct 2022 Note</b> – Oversight and contract expired but continued use. SPT currently working with the service area to complete a re-procurement exercise and this is due for award November 2022. A further mitigation is that a new contract pipeline module, that is part of the e Tendering system, is currently being implemented and this will give full visibility on all procurement projects linked to the contracts register.	Nov 2022
1.5	CR	New	May 22	Meat & Meat Products Contract	£90,310	Contract expired	<b>Oct 2022 Note</b> – Oversight and contract expired but continued use. SPT currently working with the service area to complete a re-procurement exercise and this is due for award November 2022. A further mitigation is that a new contract pipeline module, that is part of the e Tendering system, is currently being implemented and this will give full visibility on all procurement projects linked to the contracts register.	Nov 2022
1.6	CR	New	Jun 22	Fresh Milk & Dairy	£37,208	Contract expired	<b>Oct 2022 Note</b> – Oversight and contract expired but continued use. SPT currently working with the service area to complete a re-procurement exercise and this is due for award November 2022. A further mitigation is that a new contract pipeline module, that is part of the e Tendering system, is currently being implemented and this will give full visibility on all procurement projects linked to the contracts register.	Nov 2022
1.7	CR	New	Feb 22	Frozen Food	£239,666	Contract Expired	<b>Oct 2022 Note</b> – Oversight and contract expired but continued use. SPT currently working with the service area to complete a re-procurement exercise and this is due for award November 2022. A further mitigation is that a new contract pipeline module, that is part of the e Tendering system, is currently being implemented and this will give full visibility on all procurement projects linked to the contracts register.	Nov 2022
1.8	E&E	New	Mar 22	Supply of Sandbags	£27,506	Off-contract from corporate contract	<b>Oct 22 Note</b> – Emergency purchase of sandbags, with a value that exceeded the direct award amount and not via the corporate contract. 3 quotations should have been sought or due to the emergency need, a CPR waiver should have been requested. Subsequently there is a need for a long-term solution, as the corporate contract could not satisfy requirements. Procurement exercise underway.	Mar 2023
1.9	E&E	New	Feb 22	Electrical Cables & Accessories	£125,894	Contract expired & new corporate contract not used	<b>Oct 22 Note</b> – New contract procured but continued use of the old contract. Communication issues that are now resolved and service area aware of the requirement to use the new contract. New approach established to ensure this does not occur again on materials contracts.	Mar 2022

## APPENDIX 2

### WAIVERS

- CPR waivers that have been agreed covering the period **1<sup>st</sup> March 2022 to the 31<sup>st</sup> August 2022**, together with an explanation of the reasons for the waiver.

No.	Directorate	Title	Waiver Category	Waiver Value (£)	Waiver Start Date	Waiver End Date	Reason for the Waiver (brief description)
1.0	CYPF	eStart Software as a Service and associated Services	1. Sole Provider/Niche Market	£83,865	01/01/2022	31/03/2025	Allow the continuation of a business-critical system related to Family Services.
1.1	CYPF	Mental Health First Aid Instructor Course Training	1. Sole Provider/Niche Market	£100,000	14/03/2022	31/08/2022	This is a follow-on contract award from monies awarded via a grant. The supplier is already mobilised across schools and the package delivered unique to them. To ensure the continuation of this specific package of training a waiver has been granted.
2.0	AHW	Care Friends App	1. Sole Provider/Niche Market	£50,000	31/03/2022	31/03/2023	Unique app for a short-term contract that facilitates recruitment to the care sector and set up connections.
2.1	AHW	Home from Hospital	2. Emergency Situation	£48,841	01/04/2022	30/09/2022	Impacts to the commissioning timeline, because of service pressures, for these essential services requires a short-term extension to the existing contract to allow for a retender.
2.2	AHW	Homelessness Accommodation and Support Service (Street Outreach, Open House Plus, Wharf House and Tenancy Support)	4. Forms Part of a Strategic Plan/Review	£24,208	01/04/2022	09/09/2022	Additional funding received to extend the provision for two full-time additional Outreach Support Workers for a period of approximately 5 months. Not value for money or practical to obtain quotations.
2.3	AHW	Integrated Community Equipment and Loan Service	3. Safe Exit from a contract	£1,800,000	06/09/2022	05/03/2022	To seek a waiver to extend the current contract in respect of the Integrated Community Equipment and Loan Service for up to six months. This is to enable Operational Commissioning to undertake a retender exercise for the service, following an abandonment of a previous procurement. This contract must continue, as it is business critical to the delivery of services to the citizens of Doncaster.
2.4	CR	Local Assistance Scheme Awards Fulfilment Service	2. Emergency Situation	£33,000	01/04/2022	31/03/2023	This contract is business critical to delivering emergency assistance to citizens. Due to the department who runs the services, Revenues and Benefits, being significantly impacted resource wise throughout and post Covid19 the necessary commissioning review has not been completed and to allow for a full review a 12-month waiver has been granted.
3.0	E&E	Run o Mine Demolition	2. Emergency Situation	£54,000	07/02/2022	31/06/2022	Urgent requirement to demolish part of the dilapidated structure at Hatfield Colliery.

No	Directorate	Title	Waiver Category	Waiver Value (£)	Waiver Start Date	Waiver End Date	Reason for the Waiver (brief description)
3.1	E&E	Air Monitoring Equipment	4. Forms Part of a Strategic Plan/Review	£42,250	01/04/2022	31/05/2022	Urgent need to replace an air-monitoring unit due to a traffic collision at Hillcrest, Skellow, to enable the Council to carry out its statutory duty under the Environment Acts 1995 and 2021.
3.2	E&E	Engineering Inspections	2. Emergency Situation	£102,119	01/04/2022	30/03/2023	Awarding a one-year contract to Zurich Engineering will ensure a continuation of service, will ensure all equipment is serviced and will afford time for YPO to implement and establish a Dynamic Purchasing System for engineering inspections. Which is anticipated to go live in July 2022.
3.3	E&E	Robot Line Marker	1. Sole Provider/Niche Market	£27,500	16/06/2022	16/06/2024	The sports field market is only available from this supplier as they are the sole supplier of the equipment and the Council have already bought these markers previously. Autonomous line marking equipment is a very niche market and the programming of this equipment and training for the relevant department has been completed on this equipment.
3.4	E&E	Quality Streets Active Travel Public Art	1. Sole Provider/Niche Market	£400,000	10/03/2022	31/03/2023	Unique art contract to a supplier that has previously completed art projects in the Doncaster City Centre. This ensures a continuation of the art theme throughout the city centre. This was part of the works package, but a direct award is better value for money as this does not have additional overhead costs that a contractor would implement.
3.5	E&E	Outdoor Footfall Counting and Reporting	4. Forms Part of a Strategic Plan/Review	£13,600	22/07/2022	22/07/2023	Continuation of an existing agreement for a short period (12 months). This is required as the function will likely change over the next 12 months and approaching the market at this time will not be value for money.
4.0	CR	Appoint Architects Corn Exchange/Market Table RIBA Stages 1,2,3	1. Sole Provider/Niche Market	£78,282	01/03/2022	25/06/2023	Specialist firm who has previously worked on the Doncaster Markets and have the unique knowledge on the development for the markets and Sunny Bar.
4.1	CR	GPLC Job Evaluation System	1. Sole Provider/Niche Market	£74,630	28/08/2022	28/08/2027	This supplier remains the sole provider of the system we use, which is complete with an electronic assessment form to support the GLPC scheme, which the Council adopt.
4.2	CR	Teammate+	1. Sole Provider/Niche Market	£73,099	01/01/2023	31/12/2028	Licenses for this product are already owned and worth £54k. A maintenance and support package is required to maintain access to the latest fixes and support in the event of a systems issue. Maintenance and support is only available through the existing supplier. It is not available through third party retailers and framework versions of the contract would discard the existing licenses and result in increased annual fees for essentially the same service.
4.3	CR	Hybrid Mail	1. Sole Provider/Niche Market	£26,370	01/09/2022	31/08/2024	Hybrid mail via this supplier has been in situ since 2016. This was considered when the MFD contract was re-procured but it has become apparent that it could not deliver the same functionality. Movement away from this unique system that has been rolled out across the authority would not be value for money, in both resource and the implementation costs of a new system.

**Total contracts awarded versus the number and value of waivers: 1<sup>st</sup> March 2022 to the 31<sup>st</sup> August 2022**

Directorate	Number of Waivers	Value of Waivers	Total Contracts Awarded	Value of Contracts Awarded	% Number of Waivers against total contracts awarded	% Value of Waivers against total contracts awarded
<b>E&amp;E</b>	6	£639,469	142	£14,371,704	4.23%	4.45%
<b>Adult Social Care</b>	4	£1,923,050	44	£4,257,557	9.09%	45.17%
<b>Public Health</b>	0	£0	11	£66,493,420	0%	0%
<b>CYPF</b>	2	£183,865	71	£30,868,219	2.82%	0.60%
<b>CR</b>	5	£285,381	37	£4,285,079	13.51%	6.66%
<b>Total</b>	<b>17</b>	<b>£3,031,765</b>	<b>305</b>	<b>£120,275,979</b>	<b>5.57%</b>	<b>2.52%</b>

The % total number of waivers granted against contracts awarded was **5.57%**, which is an increase on the previous period between the **1<sup>st</sup> September 2022 to the 28<sup>th</sup> February 2022** of which was **2.22%**. This shift is due to a decrease of contracts awarded for this period.

The % total value of waivers granted against total value of contracts awarded was **2.52%**, which is a decrease from the previous period between the **1<sup>st</sup> September 2022 to the 28<sup>th</sup> February 2022** of which was **4.75%**. This is a positive shift from the previously reported period.