

**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 October 2015 to the end of March 2016.
2. The table below identifies the number of new waivers and breaches recorded by each Directorate since the last audit report presented in November 2015. The details of each waiver and breach are summarised in the appendices of this report.

Period 1 October 2015 to the end of March 2016	Breaches	Waivers
Adults, Health & Wellbeing	0	12
Learning & Opportunities: Children & Young People	4	2
Finance & Corporate Services	0	4
Regeneration & Environment	0	10
GRAND TOTAL	4	28

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?

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

BACKGROUND

5. 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)

6. 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.
7. The Audit committee is reminded that the Council Contract Procedure Rules were updated and approved by full Council on the 28 January 2016, with the thresholds being revised, as set out below:
 - £5,000 - use of an in-house supplier, Council wide contract, framework agreement or direct award where possible to a Doncaster based organisation.
 - Between £5,000 and £25,000 – use of an in-house supplier, Council wide contract, framework agreement or obtain three verbal quotes one of which must be from a Doncaster based organisation (a record of quotes is to be maintained);
 - Between £25,000 and £164,176 use of an in house supplier, Council wide contract, framework agreement or obtain three written quotes one of which must be from a Doncaster based organisation where the above is not available;
 - Over £164,176 use of an In-house supplier, Council wide contract, framework agreement or carry out a formal tender process.
8. Whilst the EU thresholds are set within the legislation and, therefore, cannot be waived, it is recognised that from time to time 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.

Breaches to CPR's

9. 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.
10. 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.
11. Four breaches to CPR's have been reported this period (see detail of each breach at appendix 1).

Update to Breaches previously reported

12. In November 2015, there were two new breaches of CPR's reported to Audit Committee as well as updates to five existing unresolved breaches.
13. Since the November report two of these breaches been remedied and contracts in the process of being awarded in respect of Mortuary Services and CCTV services.
14. However, the five remaining unresolved breaches are set out below:-
 - Doncaster Mind & Changing Lives – Review is still ongoing though this still on target to be concluded at the 31st March 2016.
 - Older Peoples alarm scheme with various suppliers – a report with recommendations has been prepared and a way forward will be agreed in March/April. The provision will remain in breach until the recommended option has been agreed and implemented.
 - Springwell Lane and Lanark Drive – Agreement has been reached with the Clinical Commissioning Group (CCG), for the CCG, to fund Springwell Lane from 1st April 16, discussions with the CCG regarding the funding of Lanark Drive remain ongoing.
 - Solar Centre –Review of service is ongoing with the outcome being determined by individual review timescales.
 - Autism Family Practitioners – the insourcing of this service is expected to be completed by 31 March 2016.

Waivers to CPR's

15. Twenty eight waivers to CPR's have been approved this period (see appendix 2

for the detail of each waiver).

16. 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).

REVIEW OF PROCUREMENT ARRANGEMENTS ABOVE £5,000

17. 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

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

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 OUTCOMES

20.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</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>The individual waivers (set out in Appendix 2) seek to ensure that the Council is able to properly continue to deliver modern, cost effective, good quality vital services.</i></p>
	<p>People 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>People in Doncaster benefit from a high quality built and natural environment.</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>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>Council services are modern and value for money.</p>	<p><i>The individual waivers (set out in Appendix 2) seek to ensure that the Council is able to properly continue to deliver modern, cost effective, good quality vital services.</i></p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	

RISKS AND ASSUMPTIONS

21. With regards to the ongoing review of commercial arrangements with suppliers the risks of breaches to 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

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, 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.

HUMAN RESOURCE IMPLICATIONS

24. There are no specific human resource implications within this report, as each waiver or breach is considered on its own merits.

TECHNOLOGY IMPLICATIONS

25. There are no specific technology implications within this report, as each waiver or breach is considered on its own merits.

EQUALITY IMPLICATIONS

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

CONSULTATION

27. 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

28. None

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BREACHES

This appendix details the C.P.R. breaches that have been identified to the end of March 2016, together with a brief explanation of the reasons for the breach and their current status

Directorate & Responsible Officer	Description	Annual Breach Value	Contract End Date	Reason for breach	Proposed action	Timescale for resolution
Learning & Opportunities	White Rose SEN Schools & College Placements	£1.4m	30.08.15	Delays in the regional implementation of the White Rose Framework due to the lack of resource/capacity in the region to lead this work.	No further action as the new Framework has been implemented	New agreement in place October 2015.
Learning & Opportunities	Sam and Sammie	£145k	N/A	A number of individual orders have been placed with the same company.	Working with the service area to understand current project length and spending requirements to determine the appropriate procurement route	Procurement plan to be in place by April 2016.
Learning & Opportunities	Affinity workforce	£114,850		Employment of an interim Manager in the SEN team under CPR Waiver CPR-15-01-0004 for 4 months. Contract continued beyond original waiver request	Placement to come to an end 31 March 2016	31 March 2016

Learning & Opportunities	Consultants own Limited Company	£185k since 2011-12 to present date	N/A	KP employed to work with Secondary Schools within L&O against various projects since 2011-12 to date working ad hoc days as and when required.	To cease current arrangements and procure service using the Council's framework providers only.	1 st April 2016
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APPENDIX 2

WAIVERS

This appendix details the C.P.R. waivers that have been agreed since the last report covering the period 1st October 2015 to the end of March 2016, together with a brief explanation of the reasons for the waiver.

Department	Value	Reason
Adults, Health & Wellbeing CPR/15/10/0002	£71,812	<p>Waiver request has been granted to extend the current contract for one year with Doncaster Mind for the provision of short term housing support to people living in accommodation at Morley Road.</p> <p>The current contract commenced in October 2010 for a 5 year period following a previous open tender exercise.</p> <p>It was anticipated that the contract would be re-tendered during 2015, however, due to work taking place within the Clinical Commissioning Group in respect of Mental Health Services, in particular Crisis Services, as well as a mental health social care review commencing in the near future, it was proposed to extend the contract with Doncaster MIND. This extension to the contract will enable work on the crisis service to be completed as well as accommodation pathways. The current contract is delivering performance and quality standards as outlined in the service specification.</p>
Adults, Health & Wellbeing CPR/15/11/0009	£6,080	<p>Waiver granted to extend the current contract with Library Ideas Ltd for a further 12month period for the provision of Sony music downloads.</p> <p>Library Ideas remains the only solution providing music downloads to library services in the UK, and specifically the only service providing the catalogue of Sony UK titles.</p>
Adults, Health & Wellbeing CPR/15/10/0010	£60,000	<p>Waiver granted to extend and vary the current contract with Changing Lives for the provision of a sex worker support service. The contract is extended for a further period of up to 18 months and will include a women towards recovery service as part of the contract.</p>
Adults, Health & Wellbeing CPR/15/10/0007	£370,187	<p>Waiver granted to extend the current contract for a 12 month period with Target Housing for the provision of a support service for offenders/ex-offenders/those at risk of offending.</p> <p>The current contract commenced on 3 January 2011,</p>

		<p>for a 5 year period, following a previous open tender exercise. The annual contract value has reduced by 10% since the contract first started as a result of contract negotiations.</p> <p>It was anticipated that the service would be re-tendered during 2015. However, during a service review, changes in the offender landscape were identified, particularly in relation to Transforming Rehabilitation programme reforms.</p> <p>The new arrangements for prison and probation service delivery under the Transforming Rehabilitation reforms are still bedding in. This has led to some uncertainty over the potential overlap with existing commissioned services. An additional year will allow for clarity on the changing landscape and better inform future accommodation and support commissioning intentions so that any future service specification is designed to appropriately meet need, avoid over-provision and duplication and gain the most efficient use of limited Council resources.</p> <p>A tender exercise could then take place in 2016 with a more fit for purpose service specification, which is likely to include a reduced service offer.</p>
Adults, Health & Wellbeing CPR/15/10/0008	£17,700	Waiver granted to extend the current contract with Sheffield Hallam University for an additional 6 months to allow for the continued evaluation of the Social Prescribing Service contract.
Adults, Health & Wellbeing CPR/15/10/0001	£225,000	<p>Waiver granted to award a contract for two KeyRing schemes. The KeyRing scheme provide support services to people with a learning disabilities. The two schemes are based in Bentley and Rossington.</p> <p>The contracts with KeyRing have previously been in place since 2003. Prior to the waiver being granted the market was reviewed to determine whether there was an alternative provider of this type of service and a number of other local authorities who purchase services with KeyRing were contacted to explore potential alternative arrangements. It was found that due to the unique / specialist nature of the KeyRing model, contracts had been directly awarded to KeyRing without competition.</p>
Adults, Health & Wellbeing CPR/15/11/0002	£2,913	Waiver granted to extend the current contract with Paloma Systems (for a 12 mth period), for the provision of a Case Management System used in the

		Domestic Abuse service. The waiver was granted to allow work to continue to scope out and adapt or develop the required functionality.
Adults, Health & Wellbeing CPR/16/01/0007	£45,000	Waiver granted to extend the current contract with Doncaster Dial for the provision of a Welfare Benefits and Tribunal Service, The waiver has been granted for 6 months to provide sufficient time to properly consult with the market prior to a tender being let in March 2016.
Adults, Health & Wellbeing CPR/16/01/0003	£93,318	Waiver granted to award contracts to Making Space and Sue Ryder for the provision of a Doncaster Admiral Service Pilot. The pilot is for a 14 month period and will inform the CCG and the Council of the components of a long term arrangement should a longer term contract be required at the end of the pilot project.
Adults, Health and Wellbeing CPR/16/02/0003	£70,000	<p>Waiver granted to extend the current contract with New Horizons for up to a further 12 month period to provide Infrastructure support for the Third Sector in Doncaster.</p> <p>The service was reviewed in 2015. A new service specification for Third Sector Engagement and Support was jointly developed by Doncaster Council and NHS Doncaster CCG and was published on YorTender in September 2015 with a procurement project plan that would ensure that the new service would start on 1 January 2016.</p> <p>The procurement process received 3 tender submissions. A successful bidder was chosen, but a decision was made by senior leaders to abandon the tender before contract award in light of the outcomes of the Autumn Comprehensive Spending Review.</p> <p>Discussions have been on-going in relation to potential next steps and there is willingness to lead the development of a new model for Third Sector engagement and support. The development of a new model and the subsequent procurement/sourcing necessitates up to a 12 month extension period.</p>
Adults, Health and Wellbeing CPR/16/03/0008	£85,140	Waiver granted to directly award a contract to the National Development Team for Inclusion (NDTI) for 18mths as part of the service transformation programme and specifically to deliver 2 key strands of work, namely:-

		<ul style="list-style-type: none"> • the redesign of the customer pathway • consideration of the preferable model of delivery
Adults, Health and Wellbeing CPR/16/03/0005	£14,022,074	<p>Waiver granted to directly award a 24 month contract to RDaSH to provide 0-5 Public Health Services including; Health Visiting, FNP, Smoking in pregnancy and Healthy Start vitamin distribution services for 2016/17.</p> <p>Health Visiting and FNP services novated to DMBC from NHS England on 1st October 15, leaving 6 months until contract expiry (31.03.16). Given the short time these services have been under the control of the Council, it has not been possible to carry out a robust commissioning process in order to ensure safe, effective and efficient service provision.</p> <p>As this is a large and complex contract which will require a substantial period for a re-procurement, it is anticipated that any tendering process will need to consider the impact upon service users and is likely to involve consideration of TUPE matters. A procurement exercise at this point is not appropriate as there is a risk of destabilising current service provision.</p>
Learning & Opportunities: Children & Young People CPR/16/01/0005	£564,413	Waiver granted to award a contract to the Imagination Library for 3 years to provide a book gifting service on behalf of the Doncaster Schools Forum with the aim of raising the levels of literacy in Doncaster.
Learning & Opportunities: Children and Young People CPR/16/01/0004	£16,875	<p>Waiver granted to Homestart Doncaster, for a period of three months (April to June 16), to provide Family Support Services. The Waiver was applied for, due to the following reasons:</p> <ol style="list-style-type: none"> 1. To allow for re-commissioning in line with the new early help delivery model which was approved by Cabinet in November 2015. 2. To allow for capacity within children's commissioning and procurement services i.e. as both services have been utilised in delivering the successful re-commissioning of two higher cost contracts (Children's Short Breaks and the White rose interim Framework.)
Financial and Corporate Services CPR/15/10/0009	£24,000	<p>Waiver granted to extend the current contract with Wolters Kluwer for Audit Software "TeamMate" for 3 years.</p> <p>The waiver was granted on the basis that the software is a propriety item and the support and maintenance is</p>

		only available from this software house.
Finance and Corporate Services CPR/15/11/0001	£50,000	Waiver granted (on a one off basis) to extend the current contract with PriceWaterhouseCoopers to deliver an additional piece of consultancy work for Adults, Health and Wellbeing i.e. concerning the development of the adult transformation programme.
Finance and Corporate Services CPR/15/12/0001	£70,000	Waiver granted to extend the current arrangement with Doncaster Bassetlaw Hospital Trust for an additional 3 months to allow for the effective and efficient running of the Coroner's Court, while the Council undertakes a re-tender exercise.
Regeneration and Environment CPR/15/10/0003	£82,250	<p>Waiver granted to award a contract to the Education Foundation for 10 months to deliver phase 2 of the programme of work to rethink the future of education, employment and business – for skills, growth and the future of young people in Doncaster.</p> <p>The Education Foundation are the only such provider of such education. This is a one off commission.</p>
Regeneration and Environment CPR/15/11/0006	£200,000	Waiver granted to enter into an agreement with JMC (Engineering) UK Ltd (currently on site and contracted by the Coal Authority) for the Demolition of buildings and structures at Hatfield Colliery to reduce "on site" risks, to members of the public. This is a one off commission
Regeneration and Environment CPR/15/11/0003	£22,000	Waiver granted to award a one off contract to JBA Consulting for 4 months to carry out a Strategic Flood Risk Assessment Level 2 to be included in the Councils Local Plan as a follow up to their level 1 assessment which was commissioned through the HCA framework. Ph2 is heavily reliant on Lv1 commission & therefore it would not be appropriate to be delivered by any other company.
Regeneration and Environment CPR/15/11/0007	£33,000	Waiver granted to extend the current contract for Support and Maintenance with Northgate for the Regulation and Enforcement Information Management System (M3) for 12 months to March 2017, pending a full tender exercise.
Regeneration and Environment CPR/15/10/0004	£62,946	Waiver granted to award a contract to M Hughes Land Surveyors Ltd to carry out track monitoring of the East Coast Main line in relation to phase 1 of the Finningley and Rossington Regeneration Route Scheme. The commission was in addition to work already procured (under Contract Procedure Rules) but could not be

		executed by the main contractor and therefore exceeded the original contract value.
Regeneration and Environment CPR/15/10/0006	£20,000	Waiver granted to award a contract to Archomai Ltd for consultancy services associated with developing international trade routes and inward investment opportunities for the Borough. This contract is unique in making significant links to UK & Int. Governments, the British Embassy and World Bank to drive future rail investments in to Doncaster.
Regeneration and Environment CPR/15/11/0005	£22,022	<p>Waiver granted to extend the contract with First Media Solutions for a further 12 months to enable the continuation of the connectu2 website which provides young people with access to impartial careers Information, advice and post 16 opportunities across schools, academies, training providers and colleges.</p> <p>The website was originally procured from First Media Solutions in 2013 (for a 3 year period) because the DMBC in-house website provision was not young person friendly. There has been insufficient time, budget, or resource within the DMBC Participation and Transition Team to undertake a re-commissioning exercise prior to the expiry of the contract.</p> <p>The value of the contract is to remain the same, however, the provider has agreed to undertake more duties to allow for the development of the area wide prospectus. The cost of the contract is in line with other local authorities who are provided with the same service.</p> <p>The request to extend the contract has been agreed by the IGB Board.</p> <p>This service enables the Council to meet its prescribed statutory responsibilities as set out in DFE guidance.</p>
Regeneration and Environment CPR/15/12/0002	£20,000	Waiver granted to provide Doncaster Chamber of Commerce with additional funding (for up to 7 months only) to extend business enterprise activities in schools to support the embedding of the enterprise curriculum in secondary schools/colleges as part of Doncaster Skills Academy.
Regeneration and Environment CPR/16/02/0002	£150,000	Waiver granted to allow the Innovation Unit (IU) to work in a collaborative partnership with the Council. The IU has worked closely with senior members of the Council to develop a bespoke package of work

		that is tailor-made to the needs of the authority.
Regeneration and Environment CPR/16/03/0002	£12,000	<p>Waiver granted to allow a 12 month contract extension to Re:Systems for the provision and maintenance of an inward investment and business support CRM system. The system underpins the activities of Business Doncaster to attract and support employment, create businesses and engage with counterparts across the Sheffield City Region.</p> <p>In January 2016, the Council's Information Governance Board (IGB) supported the proposed extension of the contract by 1 year (to March 2017), pending a full tender exercise i.e. on the basis that the extension would allow for a review to be undertaken to identify new options beyond the two competing systems known to Business Doncaster and both used previously.</p>