

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

**REVIEW OF CONTRACT BREACHES IN LEARNING OPPORTUNITIES, CHILDREN
AND YOUNG PEOPLE**

EXECUTIVE SUMMARY

1. This Report provides Members with an update on the progress made and actions taken in the Directorate following the identification of contract breaches since the Audit Committee on 7th April 2016.

RECOMMENDATION

2. To note the actions identified and progress made against the CPR Compliance Improvement Plan in Appendix 1, identifying the measures implemented and underway to mitigate against future contract breaches.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. There are no specific implications within this report, with regards to a review of the Directorate's contract breaches.

BACKGROUND

5. Following the identification of a number of breaches of Contract Procurement Rules (CPRs), the Director of Learning Opportunities and Skills undertook a review of the Directorate's adherence to the CPRs, including an audit investigation and a number of issues were highlighted.
6. The table below provides details of the CPR breaches that were identified to the end of March 2016, as highlighted in Audit Committee on 7th April 2016, together with a brief explanation of the reasons for the breach and their current status.

Description	Annual Breach Value	Contract End Date	Reason for Breach	Action Taken and Completion Date
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.	New agreement put into place October 2015.

Sam and Sammie	£145k	N/A	A number of individual orders have been placed with the same company.	Procurement for this work ceased in April 2016, with any future printing and design work being undertaken in house. The Local Authority has retained copyright for the materials.
Affinity workforce	£114,850		Employment of an interim manager in the Special Education Needs team under CPR Waiver CPR-15-01-0004 for 4 months. Contract continued beyond original waiver request.	Contract terminated with the Council on 31 March 2016
Consultants own Limited Company	£185k since 2011-12 to present date	N/A	Consultant employed to work with Secondary Schools within Learning and Opportunities against various projects since 2011-12 to date working ad hoc days as and when required	Contract with Consultant's Ltd Company terminated on 1 st April 2016

7. A review of the decision making processes was undertaken from January 2016, further enhanced following the outcomes of a review of adherence to CPRs.

AREAS OF IMPROVEMENT AND ACTIONS UNDERTAKEN

8. The attached Compliance Improvement Plan (Appendix 1) includes a number of actions identified by Internal Audit and agreed by the Director of Learning Opportunities and Skills to address areas identified for improvement. Since the identification of the breaches, the Director has already taken steps and implemented some of the actions as noted in the Compliance Improvement Plan (Appendix 1). These include a mandatory training session on the decision making processes within the Council for all Senior Management within the directorate delivered by the Council's Monitoring Officer. Mandatory training and awareness sessions have also been delivered around Doncaster Council's Procurement process, again by the Council's Monitoring Officer, supported by the Head of Procurement and an email has been sent by Director to all senior staff to outline the importance and expectation of following corporate processes

and the potential disciplinary consequences should they not be followed in the future.

9. A number of communications via email and the Intranet were sent out directly from the Director reinforcing the importance of ensuring that the correct procedures are followed. A total of 79 officers (grade 10, or equivalent and above) were provided with links to the CPRs and relevant democratic reporting processes.
10. The communications also reinforced the importance of engaging directly with Council colleagues in both Legal and Procurement before embarking on any decision to follow any procurement route, highlighting the importance of compliance with due process and the need to consider/find out whether or not the Council has purchased from these individuals/companies before, taking into account the aggregate spend over a number of years rather than just the specific purchase being considered by an individual manager/team.
11. Compulsory training for both CPRs and democratic processes were introduced for the 79 officers identified above; the sessions were led by the Assistant Director of Legal and Democratic Services and the Head of Procurement. All attendees were required to sign to indicate that they had attended and understood the requirements of CPRs. Furthermore, the Director reinforced the expectation that there should be no future occurrences of issues relating to procurement matters and any such matters that occur in the future, may be considered under the Council's disciplinary procedure.

OPTIONS CONSIDERED

18. The Directorate has established a Directorate Senior Management Group (SMG) comprising of Directorate Heads of Service, with attendance including corporate support colleagues including HR, Finance and Strategy and Performance. The meetings take place fortnightly. The group has an established work plan and has responsibility for monitoring progress against areas for development, including reporting progress to the Directorate's Senior Leadership Team (SLT). Internal Audit has also attended a meeting to discuss the audit plan and progress against audit recommendations. Internal Audit have been invited to attend the meetings on a quarterly basis as part of the quarter and annual performance monitoring; the first meeting attended was 8th June.

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
	All people in Doncaster benefit	<i>The individual actions (set out in</i>

	<p>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>Appendix 21 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 actions (set out in Appendix 1) 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. The risks of breaches to CPRs potentially exposes the Council to reputational, legal and commercial risk. The review and plans arising from this report aim to identify the Directorate's commitment to remedy this and mitigate any remaining

open risk.

PROCUREMENT IMPLICATIONS

22. There are no specific procurement implications arising from this report. However, Procurement Services provide advice and assistance on the procedure and framework to be adhered to of CPRs, breaches and waivers, including reviewing existing contract arrangements. The service has also jointly delivered a training programme to all managers, with Legal and Democratic Services, thus mitigating against any potential future challenge from suppliers.

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 CPRs, breaches and waivers and reviewing existing commercial arrangements.

FINANCIAL IMPLICATIONS

23. There are no specific implications within this report. However, Financial Services provide advice and assistance on the specific context of related Financial Procedure Rules and aggregate spend. 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 future issues will be reviewed in consultation with HR and considered on its merits and within the relevant HR procedures.

TECHNOLOGY IMPLICATIONS

25. There are no specific technology implications within this report.

EQUALITY IMPLICATIONS

26. The commissioner of services and subsequent procurement action would need to consider all equality implications.

CONSULTATION

27. This report has 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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APPENDIX 1

This appendix details the management action identified by Internal Audit, in consultation with the Director of Learning Opportunities and Skills during the review of procurement practice in the Directorate, provides a brief description of the progress against the actions and indicative timescales for completion.

CPR COMPLIANCE IMPROVEMENT PLAN		
PROCEDURAL		
AGREED MANAGEMENT ACTION	Responsibility/Timescale	Status
<p>CPR Waiver/ODR Log to be further developed to:</p> <p>Record the information necessary to facilitate the interrogation of entries on the register, allowing previous similar ODR/waivers to be identified, for consideration before sign off and subsequent cross referencing on the register.</p> <p>Facilitate the recording of any actions / recommendations arising within / from any forms, so that these can be monitored / managed as necessary.</p> <p>Provide CPR Waiver/CPR Breach/ODR statistics to SLT as a standard, to include historical information and categorisation e.g. service area, due to emergency/expertise etc.</p>	<p>May 2016</p> <p>May 2016</p> <p>June 2016</p>	<p>Substantially complete:</p> <p>A review of information recording and information requirements is underway</p> <p>Development of the database is underway</p> <p>All ODRs and Waivers are reviewed at SMG and approved at SLT meeting. A statistics report is being produced to be scrutinised by SLT on a quarterly basis.</p>
<p>Detailed desktop/operating guidance and prompts on forms to be produced to further support the procedures that have already been developed</p>	<p>May 2016</p>	<p>Substantially complete:</p> <p>Flowcharts / Procedures have been produced and</p>

CPR COMPLIANCE IMPROVEMENT PLAN

		circulated for ODR completion. Dummy forms and administrative / monitoring procedures in development
Annual internal review of CPR Waiver/ODR register, and overview report scrutinising both procedure and content.	April 2017 (allowing the currently improved processes to be fully embedded)	
Periodic peer review/scrutiny of decisions by an independent unit eg by other Directors or Internal Audit	January 2017 (allowing results to be fed into annual internal review process)	
GENERAL:		
AGREED MANAGEMENT ACTION	Responsibility/Timescale	Status
<p>Full review of 15/16 spend to identify any other agency / consultant / self-employed cases. (Consideration of working with Finance / Procurement to develop/allow real time aggregate of spend with Suppliers/Contractors to be produced for the Directorate.)</p> <p>Director communication to managers re CPRs to include engaging in a dialogue with procurement to ensure that consideration is given to aggregate spend.</p>	March 2016	<p>Complete:</p> <p>Aggregate spend has been discussed in SMG and an action to make sure staff understand and aware of CPRs has been recorded.</p> <p>Director communication has been issued</p>
Training session for all managers on CPRs, decision making processes, recruitment of staff (including agency / self-employment) etc.	April 2016	Complete:

CPR COMPLIANCE IMPROVEMENT PLAN

		Decision making training completed 7/1/16 All recruitment decisions are now being approved by SLT
Review governance framework to identify further areas for training sessions	May 2016	Complete: Training undertaken by all grade 10 or equivalent and above on 19 th and 25 th April 2016.
Director instructions to all Managers on importance of complying with Procurement Regulations	April 2016	Complete: Communication issued 4/4/16
Senior Management Group (SMG) work plan – embed management of audit plan and recommendations.	June 2016	Complete: Audit attending SMG on 8 th June 2016 and quarterly thereafter.
Review of Senior Level internal communication processes and clarity on Senior Level support role functions and responsibilities to aid efficiency and avoid confusion Review of the completion by all managers of the Council’s mandatory policy compliance/ eLearning Modules.	June 2016	Partially complete: Terms of Reference for SMG developed, including attendance of corporate support services. Introduced Directors briefing. Review of communications and meeting structures underway (on SMG work plan)

CPR COMPLIANCE IMPROVEMENT PLAN

Review of eLearning/compliance modules complete, recorded in PDRs and progress monitored through 1:1s, SMG, reported to SLT.

Communications Plan meeting scheduled for w/c 20th June 2016.