

Brighton & Hove City Council

Policy & Resources Committee

Agenda Item 93

Subject: Waivers of Contract Standing Orders

Date of meeting: 27 January 2022

Report of: Chief Finance Officer

Contact Officer: Name: Cliff Youngman
Tel: 07701 396941
Email: cliff.youngman@brighton-hove.gov.uk

Ward(s) affected: All

1. Purpose of the report and policy context

1.1 The Council's Contract Standing Orders (CSOs) require an annual report be presented to Policy & Resources Committee setting out all waivers authorised under CSO 20.2, 20.3 and 20.4.

1.2 This report relates to activity during the financial year 2020/21.

2. Recommendations

2.1 That the number and value of waivers authorised pursuant to Contract Standing Order 20 during the financial year 2020/21 be noted.

3. Context and background information

3.1 Under CSOs 20.2 and 20.3, Directors have delegated powers to waive CSOs in relation to contracts with an estimated contract value of less than £75,000 and over £75,000 following consultation with the chair of the relevant committee and the Procurement Strategy Manager.

3.2 Statistical analysis of waivers approved in the financial year 2020/21 is included at Appendix A and B of this report.

3.3 A summary of the number and value of waivers under and over £75,000 for 2020/21 is shown in Table 1 below.

Table 1		
	Number of Waivers	Value of Waivers
Under £75,000	20	£869,564
Over £75,000	31	£14,928,299
Total	51	£15,797,863

- 3.4 The total number and value of waivers has increased from 2019/20. Detailed analysis in appendix A shows the pandemic has had a significant impact and that over £3 million was directly due to the need to stand up new services or cover for a reduction in capacity both in the commissioning directorates and support services. A high proportion of other waivers were also indirectly related to the pandemic or were required for a longer period of time than would otherwise have been the case

4. Analysis and consideration of alternative options

- 4.1 Each waiver decision is taken on its merits taking into account value for money implications, service delivery, business continuity impacts and other critical factors.
- 4.2 The waiver process is periodically audited to provide additional assurance over the process and ensure continuous improvement.
- 4.3 Appendix D explains how waivers can provide the council with a valuable alternative to re-procurement or re-tendering and can contribute to improved value for money.
- 4.4 All waivers are presented to the Members Procurement Advisory Board, following authorisation. This provides a high level of transparency, ensuring decision making is fully scrutinised and the members of the group are able to raise concerns or refer matters in accordance with the terms of reference of the board and their advisory capacity

5. Community engagement and consultation

- 5.1 The Chief Finance Officer has been consulted over the contents of this report. Contract Standing Orders are kept under regular review to ensure they reflect best practice, and that limits and values are proportionate to current contract values.

6. Conclusion

- 6.1 The Procurement Team, working in partnership with service areas, actively maintains a Forward Plan of known or anticipated procurements for three to five years which enables early consideration of procurement options and eliminates some of the need for extensions.
- 6.2 The Corporate Procurement Service continues to promote good procurement practice across the council and is utilising various innovative approaches which are allowed for within CSOs without the need for a waiver e.g. the increase in the use of consortium contracts and frameworks.
- 6.3 The Corporate Procurement Service also continues to promote good practice in contract governance across the council while also actively investigating and working with services areas to achieve improvement.

7. Financial implications

- 7.1 Used judiciously, the use of the waiver function can support the council in achieving best value and efficiencies from its Contract Standing Orders and therefore supports achieving value for money through procurement processes. It should be noted that any direct financial implications for individual waivers are provided and reported accordingly to support each waiver decision made. Waivers are also reported to the Member Procurement Advisory Board for review and the members of the group are able to raise concerns or refer matters in accordance with the terms of reference of the board and their advisory capacity.

Nigel Manvell

Date: 06/12/21

8. Legal implications

- 8.1 The requirements of the relevant CSOs are set out in the body of the report. Legal implications are provided in reports relating to waivers concerning contracts with an estimated value of over £75,000.

Alice Rowland:

Date consulted 21/12/21

9. Equalities implications

- 9.1 There are no direct equalities implications in this report; it should be noted that full equalities implications would be required within each report supporting a waiver decision in respect of a contract estimated to be over £75,000.

10. Sustainability implications

- 10.1 There are no direct implications in this report, and it should be noted that full sustainability implications would be required within each report supporting a waiver decision in respect of a contract estimated to be over £75,000.

11. Other Implications

Social Value and procurement implications

- 11.1 All waivers are completed in consultation with the requesting service and the Procurement Team. Where relevant and applicable, requirements for inclusion of Social Value and Sustainability will be applied to the contract.

Crime & disorder implications:

- 11.2 There are no direct Crime and Disorder implications

Public health implications:

- 11.3 There are no direct implications in this report.

Supporting Documentation

1. Appendices [delete if not applicable]

1. Appendix A - Analysis by Reason - for Period 1/4/20 to 31/3/21
2. Appendix B - Analysis by Directorate - for Period 1/4/20 to 31/3/21
3. Appendix C - Explanation of the Waiver Process

2. Background documents [delete if not applicable]

1. None