

Finance and Resources Committee

10.00am, Thursday 14 January 2016

Council Contracts Planning Update - Review of Waivers over £100,000

Item number	7.19
Report number	
Executive/routine	
Wards	All

Executive Summary

This report updates the Finance and Resources Committee on the contracts with a value over £100,000 which have been awarded following a waiver of the Council's Contract Standing Orders (CSOs) between 1 October 2014 and 30 September 2015.

It also discharges the remit of the waiver report on the "Clothing Voucher Scheme" reported to Committee on 30 July 2014, which "requested a report was brought to the next meeting of the Finance and Resources Committee detailing the management process for dealing with contracts".

Links

Coalition pledges

Council priorities

Single Outcome Agreement

Council Contracts Planning Update - Review of Waivers over £100,000

1. Recommendations

- 1.1 It is recommended that the Committee:
 - 1.1.1 notes the contents of this report; and
 - 1.1.2 discharges the remit of 30 July 2014 report on the "Clothing Voucher Scheme" which requested that a report was brought to the next meeting of the Finance and Resources Committee detailing the management process for dealing with contracts".

2. Background

- 2.1 The Contract Standing Orders (CSOs) set out the legal and operational rules for how the Council buys goods and services, which range from purchases of small value to many millions of pounds. Section 9 of the CSOs sets out the circumstances in which the CSOs may be waived.
- 2.2 Waivers over the financial thresholds prescribed in the CSOs require to be approved by the Council or the Finance and Resources Committee.
- 2.3 This report has been prepared in response to a request from the Convenor of the Finance and Resources Committee for an update on waivers approved with a value over £100,000 and includes information on waivers over this value approved from October 2014 to September 2015.

3. Main report

Management process for dealing with contracts

- 3.1 Each Executive Director is responsible for selecting and appointing contractors, providers or suppliers to meet their directorate's requirements, but is required to seek guidance from the Commercial and Procurement Manager in this regard. Executive Directors are also responsible for all contracts tendered and let by their Directorate and are accountable to the Council for the performance of their duties in relation to contract letting and management.
- 3.2 Commercial and Procurement Services (CPS) provides advice and support to Executive Directors and their staff to enable them to meet the responsibilities noted above. CPS carries out tendering procedures and also monitors and

challenges planned purchasing activity to ensure that it is both effective and compliant, whilst also playing a crucial role in helping the Council innovate in order to achieve its budgeted savings targets.

- 3.3 Council contracts are regulated by European and national legislation which is implemented through the CSOs. The CSOs are supported by controls and tools that include the Contract Register, a waiver process, the Procure to Pay (P2P) process and the Procurement Handbook.
- 3.4 The Council's Contract Register is available on the Orb intranet for all staff, and is updated every two weeks. Services are responsible for ensuring information regarding their contracts is up to date and are responsible for reviewing the Register for planning purposes, actively supported by CPS staff.
- 3.5 For spend over £3,000, the CSOs mandate that services must undertake a competitive process (usually by obtaining at least three quotes) before placing an order. The Council's P2P process is aligned to this requirement and evidence must be submitted that this has been carried out before an order may be approved with a non-contracted supplier.
- 3.6 The relevant contract and procurement procedures and controls are further outlined in the Council's Procurement Handbook, also available to all staff on the Orb. This guide sets out the processes from the initial planning stages, involving market intelligence and stakeholder engagement, to the setting up of the successful supplier on Oracle or feeder system and the development of a contract management framework.
- 3.7 The CSO requirements can be waived in certain specified circumstances. The decision to do so must be supported by a written waiver or Committee report that sets out the justification. There will always be circumstances when waivers are appropriate, for example, where there is only one possible supplier of the service or goods. There is a robust approval and justification process in place for approval of waivers by Heads of Service, Executive Directors or by Committee depending on the relevant value.
- 3.8 New European and national regulations will come into effect on 18 April 2016 which will require the Council's CSOs and procurement handbook to be updated in the coming months.

Waivers with a value over £100,000

- 3.9 The Council has awarded a total of £447.9m of contracts to a variety of supplier organisations in the period from 1 October 2014 to 30 September 2015. Of these, the value of contracts over £100,000 awarded following a waiver of the CSOs was £29.36m, 6.6% of the total value. Table 1 provides a breakdown of this by service area.

Table 1: Waivers over £100,000 approved between 1 October 2014 and 30 September 2015

Value of contracts over £100,000 let following a waiver of the CSOs	Children and Families	£3.58m
	Corporate Operations	£0.24m
	Economic Development	£0.12m
	Health and Social Care	£6.02m
	Services for Communities	£19.40m
Total value of waivers over £100,000		£29.36m
Total value of contracts awarded between 1 October 2014 and 30 September 2015		£447.9m

3.10 Table 2 summarises the current status of the waivers over £100,000. Further detail is provided in appendix 1 and, where the waivers were approved by Finance and Resources Committee, a link is provided to the Committee reports in section 10.

Table 2: Current status of waivers over £100,000

Status	Position on Expiry	Number	Value	
Live	No further waiver required, either one-off requirement or new contract will be procured by waiver expiry date	38	£8.74m	
Live	Further waiver may be required due to the specialist nature of services or limited market interest	9	£2.23m	
Live	Further waiver will be required to allow further time for a service review or procurement exercise to be completed	2	£0.88m	
Live	Homelessness Prevention contracts - a further waiver will be required for six of the nine contracts that expire in 2016.	49	£15.33m	

	The intention is to have tendered contracts in place when the remaining waivers expire in 2017.			
Live	Ongoing review of service. requirements on waiver expiry still to be determined	1	£0.15m	
Live - Total Value				£27.33m
Expired	Further waiver now overdue to allow time for procurement exercise to be completed	3		£0.35m
Closed	One off requirement or new contract procured in line with CSOs	12		£1.68m
Total		114		£29.36m

- 3.11 In conclusion, in the majority of cases service areas expect to be able to comply with the CSOs as they make their arrangements for the continued provision of services as waivers expire. There are, however, a number of cases where a further waiver will be required, either due to the particular nature of the services (8%) or to allow further time to complete a procurement exercise or make other appropriate arrangements (10%).
- 3.12 There will also always be some uncertainty over the time required to undertake a compliant procurement process, particularly given the scale of transformation facing the Council and the consequential impact on its requirement for goods and services. The waiver process and ongoing reporting to the Finance and Resources Committee ensures appropriate approval and scrutiny in those circumstances where services are unable to comply fully with the CSOs.

4. Measures of success

- 4.1 By continuing to scrutinise and document all instances where it has been requested that the CSOs be waived, this evidences strong authorisation and internal control processes within the City of Edinburgh Council.
- 4.2 A reduction in waivers being requested where this is simply due to lack of appropriate planning.

5. Financial impact

- 5.1 There are no financial impacts directly arising as a result of this report. Contracts awarded or extended under delegated authority create a legally binding contract for and on behalf of the City of Edinburgh Council which is bound and liable for any conditions under such contracts.

6. Risk, policy, compliance and governance impact

- 6.1 A waiver denotes a departure from the CSOs (which in part reflect the Council's legal obligations). There may be an increased risk if the Council has departed from EU requirements. However, each waiver is scrutinised on its own merits in this context, and is only approved if justifiable given the circumstances or permitted in accordance with EU obligations.

7. Equalities impact

- 7.1 There are no equalities impacts directly arising as a result of this report.

8. Sustainability impact

- 8.1 There are no sustainability impacts directly arising as a result of this report.

9. Consultation and engagement

- 9.1 The CSOs outline the appropriate measures of consultation and approval that must be sought from officers or committee for each waiver, dependent on the expected value.
- 9.2 Following extensive consultation with service areas, revised CSOs were approved by the Council on 5 February 2015.
- 9.3 The revised waiver process and supporting documentation were launched in February 2015 to accompany the revised CSOs.

10. Background reading/external references

- 10.1 Links to the waiver reports for contracts over £100,000 considered by the Finance and Resources Committee between 1 October 2014 and 30 September 2015 are shown below, together with any subsequent update reports.

[Finance and Resources Committee, 27 November 2014, Item 7.12: Review of the Implementation of the Homelessness Prevention Commissioning Plan and Extension of Contracts](#)

[Finance and Resources Committee, 27 November 2014, Item 7.20: Extension of Existing Framework Agreement for the Provision of Road Planers, Mechanical Brushes and Lorries \(with Operators\)](#)

[Finance and Resources Committee, 27 November 2014, Item 7.21: Extension of Existing Term Contract for the Provision of Hire and Maintenance of Heavy Plant Equipment \(Reference CT3580\)](#)

[Finance and Resources Committee, 15 January 2015, item 7.17: Mediation Services - Request for Contract Extension](#)

[Finance and Resources Committee, 15 January 2015, Item 7.21: Extension of Existing Community and Accessible Transport Agreements from 1 April 2015 to 31 March 2016](#)

[Finance and Resources Committee, 3 February 2015, Item 7.11: Extension of Service Level Agreement for Change-works Resources for Life](#)

[Finance and Resources Committee, 3 February 2015, Item 7.13: Extension of Contract for the Service and Maintenance of Building Energy Management Systems](#)

[Finance and Resources Committee, 19 March 2015, Item 7.20: Extension of Children and Families Care Contract](#)

[Finance and Resources Committee, 13 May 2015, Item 7.10: Insurance Policies Waiver of Contract Standing Orders](#)

[Finance and Resources Committee, 13 May 2015, Item 7.15: Award and Extension of Health and Social Care Contracts](#)

[Finance and Resources Committee, 13 May 2015, Item 7.16: Contract Award for Homeless Prevention - Young People's Services Foyer Approach](#)

[Finance and Resources Committee, 4 June 2015, Item 7.12: Contract Award for Homeless Prevention – Crisis and Complex Services](#)

[Finance and Resources Committee, 27 August 2015, Item 7.18: Contract Award for Homeless Prevention – Domestic Abuse Services](#)

[Finance and Resources Committee, 27 August 2015, Item 7.20: Homeless Prevention - Advice and Support: Additional Contracts](#)

[Finance and Resources Committee, 27 August 2015, Item 7.23: Waiver Report for Servicing and Repairs Contract](#)

[Finance and Resources Committee, 27 August 2015, Item 7.25: Bustracker Operation and Maintenance](#)

[Finance and Resources Committee, 24 September 2015, Item 7.18: Mental Health and Wellbeing Consultation Feedback and Proposed Commissioning Plan 2016-2017– referral from the Health, Social Care and Housing Committee](#)

[Finance and Resources Committee, 29 October 2015, Item 7.14: Youth Work Services Redesign](#)

[Finance and Resources Committee, 26 November 2015: Item 7.11: Extension of Mental Health and Wellbeing Preventative Services Contract](#)

[Finance and Resources Committee, 26 November 2015, Item 7.14: Review of the Implementation of the Homelessness Prevention Commissioning Plan and Extension of Contracts](#)

[Finance and Resources Committee, 26 November 2015, Item 7.15: Energy Advice and Support for Housing Services – referral from the Health, Social Care and Housing Committee](#)

[Finance and Resources Committee, 26 November 2015, Item 7.19: Community Transport – Interim Funding Arrangements](#)

10.2 In addition links are included below to the CSOs, and the Clothing Voucher Scheme report and 26 November 2015 Rolling Action Log that prompted this report.

[Contract Standing Orders](#)

[Finance and Resources Committee, 30 July 2014, Item 7.13: Contract Awarded Under Delegated Authority – Waiver Report – Clothing Voucher Scheme](#)

[Finance and Resources Committee, 26 November 2015, Item 6.2: Rolling Actions Log](#)

Hugh Dunn

Acting Executive Director of Resources

Contact: Nick Smith, Commercial & Procurement Manager

E-mail: nick.smith@edinburgh.gov.uk | **Tel:** 0131 529 4377

11. Links

Coalition pledges	P30: Continue to maintain a sound financial position including long term financial planning
Council priorities	CO25: The Council has efficient and effective services that deliver objectives
Single Outcome Agreement	
Appendices	

Appendix 1 - Waivers over £100k approved from 1 Oct 2014

Approval Date	Directorate	Current Suppliers	Number of Suppliers	Explanation	Value of waiver	Expiry Date	Planning Update	Live / Expired	Further waiver anticipated?
01/10/2014, extended by Committee 29/10/2015	Children & Families	Citadel Youth Centre, Pilton Youth & Children's Project, Wester Hailes Youth Agency, WHALE Arts Agency, SCOREScotland, The BIG Project, 6VT (Edinburgh Youth Cafe)	8	Extension of existing contracts for youth services while grant system is redesigned in line with the Children and Families Commissioning Plan 2015-2020	£1,283,197	30/09/2016	Award of new contract planned by August 2016	Live	No
07/11/2014	Economic Development	HG Consulting (Scotland) Ltd	1	Consultancy services to continue the development of Edinburgh's East End. Spend recorded as a waiver but all costs being recovered from TIAA Henderson Real Estate as part of the agreement on the St James development. The supplier has specialist knowledge of the area's development	£120,000	29/02/2016	This assignment will end in February 2016	Live	No
15/01/2015, extended by Committee 26/11/2015	Services for Communities	Lothian Community Transport Service, South Edinburgh Amenities Group, HcL Dial a Ride, HcL Dial a Bus, Dove Transport, Lothian Shopmobility	6	These organisations provide community and accessible transport services. The extension of service level agreements is to allow services to continue to be provided to a range of vulnerable groups, while the second phase of the Community and Accessible Transport Review is completed and a procurement plan for group and other community and accessible transport is put in place	£1,670,470	31/03/2017	On 26 November 2015, F&R Committee approved an extension to March 2017 to provide continuity of service while the business case for a Community Transport Public Social Partnership is developed. The business case will be considered by the F&R Committee on 2 February 2016	Live	No
03/02/2015, extended by Committee 26/11/2015	Services for Communities	Changeworks Resources for Life	1	Changeworks provides energy advice, fuel poverty, waste and recycling awareness services to the Council. The extension of service level agreements is to allow continuity of services while the Council reviews its requirements for these services	£560,000	31/03/2019	On 26 November 2015, F&R Committee approved extension to March 2018 for energy advice services, with an option to extend a further year	Live	No
03/02/2015	Services for Communities	Changeworks Resources for Life	1	Changeworks provides energy advice, fuel poverty, waste and recycling awareness services to the Council. The extension of service level agreements is to allow continuity of services while the Council reviews its requirements for these services	£159,128	31/03/2016	A report was due to be brought to Committee in Autumn 2015 setting out future plan for procuring the waste and recycling awareness services. This has not occurred as the intention is that this service will be awarded a grant in future due to the educational elements of the programme	Live	No

03/02/2015	Services for Communities	Energy Solutions Group	1	ESG maintains and services the Council's building energy management systems (BEMS). The extension is to allow a council-wide BEMS strategy to be developed and a new contract to be procured in line with the strategy	£190,000	31/03/2016	Award of new contract planned by 31 March 2016	Live	No
19/03/2015	Children & Families	Dean and Cauvin Trust	1	Two year extension for residential care service. Dean and Cauvin provide 9 residential places for vulnerable teenagers.	£1,634,856	31/03/2017	Award of new contract planned for late 2016	Live	No
13/05/2015, extended by Committee 26/11/2015	Health & Social Care	15 Providers	15	Mental Health and Wellbeing Contracts extended first to March 2016 and then to March 2017 to allow the Integrated Joint Board to develop the strategy for the future provision of these services	£2,164,478	31/03/2017	Strategy being developed by Integrated Joint Board for future provision of these services. Procurement scheduled for April - October 2016	Live	No
13/05/2015	Health & Social Care	Family Advice and Information Resource, Edinburgh Development Group	2	Extension to contracts for people with learning disabilities and their families, to search for advice and advocacy support in respect of welfare rights, information about options for moving on from the family home and self directed support opportunities. This will allow for the co-production with service users, their families and other stakeholders of a new and sustainable approach to meeting their support needs	£157,700	31/03/2016	The review of these services has resulted in a recommendation that these services be transferred to the grants programme from April 2016. This will be considered at the Health, Social Care and Housing Committee on 26 January 2016	Live	No
13/05/2015, extended by written waiver 17/09/2015	Children & Families	The Action Group - Black and Ethnic Minorities Advice Service	1	Extension to contract for support to parents and carers of disabled children to review arrangements for the provision of this service.	£126,750	31/03/2017	The Service Area is reviewing the arrangements for provision of this service and is working towards a tender in June 2016 unless market testing reveals no interest other than current provider, in which case direct award will be justified.	Live	No
27/08/2015	Services for Communities	Cofely Ineo	1	Continued provision of Bustracker Operation and Maintenance services to allow an option appraisal of the longer term maintenance and development of the bustracker system.	£675,000	27/02/2017	Waiver allowed for a 12 month extension plus 6 months should this be required. An options appraisal for long term maintenance and development will be carried out, alongside a procurement strategy	Live	No
13/05/2015	Corporate Operations	AXA ZMI QBE	3	Direct award of contracts for insurance for the following risks, as a result of limited market interest: All Risks (AXA Art), Fidelity Guarantee (ZMI) and Professional Indemnity (QBE)	£127,536	31/03/2016	These will as in the past be marketed by the Council's insurance advisors. Where there is limited appetite from the market to cover local authorities for certain insurances direct award may be justified and a waiver required	Live	Yes, direct award may be justified if limited market interest

13/05/2015	Health & Social Care	EVOC, Volunteer Centre Edinburgh, Edinburgh Cyrenians, Autism Initiatives	4	Direct award of contracts under waiver on the basis of their special characteristics	£1,511,499	31/03/2018	On the basis of the unique nature of the services provided by these organisations, another direct award in respect of these services may be required in 2018	Live	Yes, direct award may be justified on basis of specialist nature of services
13/05/2015	Health & Social Care	Royal National Institute for the Blind, Deaf Action	2	Direct award of contracts under waiver on the basis of their special characteristics and to allow for a best value review and re-drafting of the service specification to provide for an integrated sensory support service	£591,366	31/03/2016	On the basis of the specialist nature of these services and limited market interest identified in the best value review, a further direct award may be required in April 2016	Live	Yes, direct award may be justified on basis of specialist nature of services
13/05/2015	Health & Social Care	Lothian Centre for Inclusive Living	1	Extension of existing contract to provide advice and support of users of Direct Payments and to allow time to review the commissioning arrangements for this service	£242,592	31/03/2016	The commissioning review recommends that separate contracts are let to provide a Personal Assistant payroll service and a combined Personal Assistant recruitment and support service and a welfare rights / financial planning service. A report to Finance and Resources Committee seeking approval of the commissioning plan is scheduled for February 2016. To allow time for the subsequent procurement, approval will be sought for a further extension to the current contract until October 2016	Live	Yes, to allow time for implementation of commissioning plan
13/05/2015	Health & Social Care	Capability Scotland	1	Extension of contracts for buildings-based services to people with disabilities to March 2016 (E2 premises) and October 2016 (New Trinity Day Centre). This will allow the transition to a new hub facility service model and tie in with the planned dates to dispose of these premises.	£635,103	31/03/2016, 31/10/2016	Both sales are now forecast to be completed in October 2016 and a further extension of the E2 contract will be requested at the February F&R Committee	Live	Yes, to align with transition to a new hub facility service model
6 reports to F&R Committee between 27/11/2014 and 26/11/2015	Services for Communities	49 homelessness prevention services	49	Between November 2014 and November 2015 the Committee has approved waivers for 49 homelessness prevention services. This is to allow the homelessness commissioning plan to be implemented. The waiver for nine services expires on 31/03/2016. The remainder expire during 2017.	£15,328,362	Various between 31/03/2016 and 13/08/2017	The intention is to have new contracts in place as waivers expire in 2017. A report is being prepared for the Committee on 2 February 2016 requesting a further extension for six services to allow further time for the co-production of service specifications with service users and providers	Live	Yes, to allow further time for the co-production of service specifications

13/02/2015	Children & Families	The Place2be	1	Extension of existing contract for a counselling service within primary schools, to provide continuity of care to children and to allow time to finalise the strategic review to the service and undertake an appropriate procurement exercise to ensure future compliance	£146,000	31/03/2016	NHS/CEC review of service - new outcome awaited Dec 2015. Further waiver will be required if service to be continued/replaced	Live	Services are still to provide an update
19/05/2015	Health & Social Care	Park House Health Care Limited	1	An extension of the current contract for the service and repair of equipment such as mobile hoists, electric beds, ceiling hoists, dynamic mattresses and cushions, to allow for collaborative procurement of a framework with NHS and four other Councils (consolidated with the services currently provided by Advanced Stairlifts Scotland). This continuity will allow for a revision of specifications, whilst mitigating any health and safety concerns with regards clients and carers in the interim	£231,166	30/11/2015	The Council is collaborating with NHS and four other councils in the procurement. This has extended the procurement process, but will give a good outcome for the Council. Contract award will be by August 2016. A further waiver will be required to extend the current contracts until August 2016	Expired	Yes, to complete the collaborative procurement process
27/08/2015	Health & Social Care	Total Hygiene, Advanced Stairlifts	2	Extension of existing waivers to enable a partnership agreement with four other councils and NHS Lothian for supply, service and repair of electric bidet toilets and stair lifts, lifting platforms and 'through floor' vertical lifts	£122,500	30/11/2015	The Council is collaborating with NHS and four other councils in the procurement. This has extended the procurement process, but will give a good outcome for the Council. Contract award will be by August 2016. A further waiver will be required to extend the current contracts until August 2016	Expired	Yes, to complete the collaborative procurement process
03/10/2014	Services for Communities	Scottish Power Energy Network	1	Installation of isolator switches within the Council's domestic properties. Supplier owns and supplies the electrical supply network in Edinburgh and has the sole authority to undertake the works	£190,000	31/03/2015	One off award	Closed	No
07/11/2014	Children & Families	Care Vision Action for Children FCA Fostering Relations Fostercare Connect	5	Fostering arrangements for 'looked after' children. While there is a national (Scotland Excel) framework there is a need for additional specialist support. A new framework will be procured and this will commence once the new 2015 Statutory guidance comes into force as this is likely to influence the specification	£220,000	07/11/2015	New contract in place from November 2015	Closed	No
27/11/2014	Services for Communities	Willsweep Limited	1	Provision of mechanical sweepers for road works. Procurement of a new framework contract for roads plant and machinery was unsuccessful therefore existing contract extended while a new procurement took place	£247,470	31/03/2015	New contract in place from 1 April 2015	Closed	No

27/11/2014	Services for Communities	Jarvie Plant Limited	1	Hire and maintenance of heavy plant and equipment. Procurement of a new framework contract for roads plant and machinery was unsuccessful therefore existing contract extended while a new procurement took place	£258,020	31/03/2015	New contract in place from 1 April 2015	Closed	No
09/12/2014	Children & Families	Sibcas	1	Installation of nursery temporary unit for Leith Primary School. There are two main providers and Sibcas has a design developed following a Falkirk Council procurement which meets Care Commission standards, and can be installed by January 2015 with minimum delays. The alternative supplier has no 'off the shelf' unit	£165,475	31/03/2015	One off contract	Closed	No
15/01/2015	Services for Communities	SACRO	1	SACRO provides mediation services to residents in Edinburgh experiencing antisocial behaviour. An extension to the current SLA at a cost of £123,750 is requested, until 31 March 2015, to allow for examination of alternative service delivery models that will provide best value. This examination will assess bringing the service in-house or procuring a redesigned service	£123,750	31/03/2015	SACRO ceased providing this service on 31 March 2015. Service provided by in-house team from August 2015	Closed	No
17/03/2015	Health & Social Care	The Jericho Benedictines	1	Jericho House provides care home accommodation for men with alcohol-related brain damage. This extension allows for a new strategy to be developed for the service. Market engagement has identified no immediate alternative to the existing supplier	£361,944	31/03/2016	The home is now closed and people accommodated in other homes	Closed	No
27/03/2015	Corporate Operations	Capita Business Services Ltd	1	Additional customer service staff resource from an external processing supplier to address operational pressures created by Welfare Reform, fully funded by the DWP and to mitigate against unacceptable claim processing times	£110,000	30/08/2015	New contract in place from November 2015	Closed	No
					£29,354,362				