

## Extract from Contract Standing Orders (CSOs) October 2018

### 12 Waivers

- 12.1 The requirement for the Council to conduct a competitive purchasing process for contracts of £10,000 or more may be waived in the following circumstances:
- 12.1.1 For contracts which are not subject to the EU Rules, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or
  - 12.1.2 the circumstances set out in the Public Contract Regulations 2015 Regulation 32 apply (whether or not the contract is of a type which is subject to the application of the EU Rules); or
  - 12.1.3 where the supply is for parts for existing machinery, or where the terms of supply of equipment require that maintenance be undertaken by a specified provider; or
  - 12.1.4 where the work is of a specialist nature, the skill of the contractor is of primary importance, and the supply market has been tested and found to be limited; or
  - 12.1.5 where the supply is for maintenance to existing IT equipment or software, including enhancements to current software, which can only be performed by the licensed developer or owner of the system; or
  - 12.1.6 at the discretion of the relevant Corporate Director who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing.
- 12.2 A Responsible Officer who seeks a waiver of Contract Standing Orders shall do so **only in advance and only in exceptional circumstances**. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Standing Orders is set out in the Council's Purchasing Guide.
- 12.3 All waivers from these Contract Standing Orders must be:
- 12.3.1 Fully documented
  - 12.3.2 Subject to a written report in an approved format, available on the intranet, to be submitted **in advance** to the relevant Corporate Director for endorsement which shall include reasons for the waiver which demonstrate that the waiver is genuinely required
  - 12.3.3 Subject to comment and/or endorsement as to existence of exceptional circumstances by the Strategic Procurement Manager
  - 12.3.4 Subject to **approval in advance** by the Deputy Chief Executive/Section 151 Officer or his/her authorised representative, who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.
- 12.4 All decisions on waivers must take into account:
- 12.4.1 Probity
  - 12.4.2 Best value/value for money principles.

- 12.5 For contracts subject to the EU Rules, any waiver from the requirement for competition must meet without exception the conditions set out in the EU Rules, in addition to the general requirements above.
- 12.6 Once a waiver is approved in respect of a specific contract value, the waiver shall cover contract spend up to the next spend threshold negating the need for a further waiver application on occasion when there may be a slight increase in contract spend.