

Audit & Governance Committee

Date of Meeting: 15 March 2018

Report Title: Waivers and Non Adherences (WARNs) and Contract Management update

Senior Officer: Jan Willis – Interim Executive Director of Corporate Services

1. Report Summary

- 1.1. The purpose of this report is to provide an update to the Audit and Governance Committee on the number and reasons for Waivers and Non Adherences (WARNs) which have been approved between the 1st November 2017 and the 31st January 2018.

The approved WARNs are presented to the committee for review. The number of WARNs to be presented to the March Audit and Governance Committee is 2; 1 waiver and 1 non adherence.

All WARNs will be presented to the Audit and Governance Committee without any information redacted. However, they will be presented in Part 2 of the Committee as they may contain commercially sensitive information or Officer details. The main report will be presented in Part 1.

This report will also provide an update on the progress of the Contract Management Audit findings and next steps.

2. Recommendation/s

- 2.1. That the Audit and Governance Committee note the number and reason for Waivers and Non Adherences (WARNs) approved between 1st of November 2017 to the 31st January 2018.

3. Reasons for Recommendation/s

- 3.1. The Audit and Governance Committee has a key role in overseeing governance arrangements within the Council and has a requirement to review all approved WARNs. The WARN process forms part of our Contract Procedure Rules (CPRs), which are intended to promote good Procurement and Commissioning practice, transparency and clear public accountability.

4. Other Options Considered

4.1. N/A

5. Background

5.1. All WARNs approved in the period between Audit and Governance Committee's will be presented to the following Committee. This report contains all WARNs approved from the 1st November 2017 to the 31st January 2018.

The WARN process records the following;

- Waivers to the Contract Procedure Rules – These are agreed waivers in accordance with the Contract Procedure Rules, Part 5, Section 7.1-7.3.
- Non Adherence to the Contract Procedure Rules – This is a breach of the Contract Procedure Rules in accordance with Part 5. Section

WARNs	2014-2015	2015-2016	2016-2017	April 2017- Jan 2018
Non Adherence to CPRs	20	25	33	10
Waiver to the CPR's	62	45	40	16
Grand Total	82	70	73	26

7.4 – 7.10.

Waivers are a compliant part of the constitution, Contract Procedure Rules.

The number of WARNs approved from the 1st November 2017 to the 31st of January 2018 is 2; 1 waivers and 1 non adherence – detailed below

Detail			Approved Total
Row Labels	B	C	
Non Adherence to CPRs			1
07/11/2017			
Gateway review of Congleton Link Road to meet the requirements of Department for Transport (DfT).	1		
Waiver to Requirements of Competition			1

30/12/2017		1	
Signs of Safety Training and Consultancy			
Grand Total			2

The description of the reasons for the Waivers and non adherence detailed in the table above are as below.

Code	Description of Category/code
B	Specialist Education or Social Care Requirements
C	Genuine Unique Provider – e.g. from one source or contractor, where no reasonably satisfactory alternative is available.

- 5.2. A summary of the total number of WARNs for the reporting periods 2014 - 2017 is set out below:

The figure for financial year 2016 – 2017 increased slightly due to it including 16 ICT WARNs which were previously managed through Cosocius. If these were removed then the figure would be 54 meaning a reduction from the previous year.

The total number of WARN's for 2017-2018 to date is 26. There is a further 2 months to be able to calculate the actual total for 17/18, however based on current figures this is a reduction of 64% from 2016/17 to 2017/18 and 75% reduction comparing 2014/15 figures with 2017/18 to date.

This reduction in Waivers and non adherences is the result of improved forward planning, better information such as enhanced contracts register and the procurement team proactively working with services to inform better outcomes and ensuring compliant contracts are in place.

- 5.3. In June of 2016 internal audit issued a report which had reviewed Cheshire East Council's approach to contract management. The report concluded that

- The arrangements for effective contract management are insufficient

- Those improvements are required to training and guidance and that there needs to be a cultural change to embrace effective contract management.

To address this a new Commissioning and Procurement Board has been created to provide corporate assurance of the adequacy and effectiveness of commissioning, procurement and contract management and to promote a “one council” approach, facilitating and sharing best practice and knowledge.

As part of this a Contract Management Framework has been developed which maps out the Councils approach over the next 12 months to create a consistent approach across Cheshire East Council. The framework draws upon existing good practice and National Audit Office and Government Procurement Service guidance. The framework includes both contract management processes and gives a foundation to build the skills and competencies of staff in commercial and contractual best practise. This has been formally approved in January 18 and will now be rolled out throughout within all services.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. All employees must ensure that they use any Council or other public funds entrusted to them through their job role in a responsible and lawful manner.
- 6.1.2. Employees must also seek to ensure value for money and take care to avoid the risk of legal challenge to the Council in relation to the use of its financial resources. The Council’s Officer Delegations, Finance and Contract Procedure Rules and Operating Procedures must, therefore, be followed at all times. This report sets out compliance with Contract Procedure Rules.

6.2. Finance Implications

- 6.2.1. The Council’s Constitution Finance Procedure Rule 2.30; Chapter 3 - Part 4: Section 2 explains that the Corporate Leadership Team (CLT) are responsible for working within their respective budget limits and to utilise resources allocated to them in the most efficient, effective and economic way.

6.2.2. Along with comments from Procurement and Legal Officers, Finance Officers are invited to make comments in respect of each WARN, to help ensure Finance Procedure Rules are adhered to in this regard (e.g. that the relevant Service has identified sufficient existing budget to cover the proposal; and also that the Service has considered how to achieve best value for money via this particular recommended course of action).

6.3. Equality Implications

6.3.1. If this section indicates that an Equality Impact Assessment has been completed it is to be included as an Appendix to the report.

6.4. Human Resources Implications

6.4.1. N/A

6.5. Risk Management Implications

6.5.1. The focus is the risk that processes are not complied with, which increases the likelihood of legal challenge causing significant financial and reputational risk to the Council. This includes procurement processes.

6.6. Rural Communities Implications

6.6.1. There are no direct implications for rural communities.

6.7. Implications for Children & Young People

6.7.1. There are no direct implications for children and young people.

6.8. Public Health Implications

6.8.1. There are no direct implications for public health.

7. Ward Members Affected

7.1. N/A

8. Consultation & Engagement

8.1. N/A

9. Access to Information

9.1. The background papers relating to this report can be inspected by contacting the report writer.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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