

Audit & Governance Committee

Date of Meeting: 06 December 2018

Report Title: Waivers and Non Adherences (WARNs)

Senior Officer: Mark Taylor – 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 September 2018 and the 30th September 2018.
- 1.2. The approved WARNs are published retrospectively for information on the next appropriate Audit and Governance Committee. The number of WARNs to be presented to the December Audit and Governance Committee is 1 Waiver.
- 1.3. 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 and/or Officer Details.

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 September 2018 and 30th September 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 retrospectively review all approved WARNs. The WARN process forms part of the Councils 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 Committees will be presented to the following Committee. This report contains all WARNs approved from the 1st September 2018 to the 30th September 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 7.4-7.10.

Waivers are a compliant part of the Contract Procedure Rules and are used where there is a genuine business case to direct award without the need for competition.

WARNs	2014-2015	2015-2016	2016-2017	2017- 2018	April – September 2018
Non Adherence	20	25	33	10	4
Waiver	62	45	40	20	8
Grand Total	82	70	73	30	12

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 was 30. This is a reduction from the previous year of 59%.

The total number of WARN's in 17/18 for the same period to give an additional benchmark e.g. April to Sept 17 was 21. Therefore, the April to Sept 18 figure shows a reduction of 42% for the same period.

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

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. N/A

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:

Name: Lianne Halliday

Job Title: Senior Manager - Procurement

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Appendix 1

CPR WAIVERS – CATEGORIES FOR INTERNAL REPORTING

A	Genuine Emergency – which warrant an exception to the requirements
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.
D	Compatibility with an existing installation and procurement from any other source would be uneconomic given the investment in previous infrastructure
E	In-depth Knowledge, skills and capability of project/services already in existence with consultants/providers carrying out related activity – therefore procuring new consultants/skills would be uneconomic given the investment in previous, related work.
F	No valid tender bids received, therefore direct award can be substantiated
G	Lack of Planning
H	Other – Any other valid general circumstances up to the EU threshold