

CHESHIRE EAST COUNCIL

Audit and Governance Committee

Date of Meeting: 7th December 2017
Report of: Section 151 Officer
Subject/Title: Waivers and Non Adherences (WARNs) and Contract Management Update

1.0 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 of September 2017 and the 31st of October 2017.

The approved WARNs are presented to the committee for review. The number of WARNs to be presented to the December Audit and Governance Committee is 5; 3 waivers and 2 non adherences.

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 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.

2.0 Recommendation

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

3.0 Reasons for Recommendations

- 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.

4.0 Wards Affected

- 4.1 All wards.

5.0 Local Ward Members

5.1 Not applicable.

6.0 Policy Implications

6.1 Not applicable.

7.0 Financial Implications

7.1 The Council's Constitution (Finance Procedure Rule B25) 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.

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).

8.0 Legal Implications

8.1 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.

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.

9.0 Risk Management

9.1 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.

10.0 Background and Options

10.1 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 of September 2017 to the 31st of October 2017.

The WARN process records the following;

- Waivers to the Contract Procedure Rules – These are agreed waivers in accordance with 5.2.1 of the Contract Procedure Rules.
- Non Adherence to the Contract Procedure Rules – This is a breach of the Contract Procedure Rules in accordance with 5.3.1.

Waivers are a compliant part of the constitution in accordance with 5.2.1 of the Contract Procedure Rules.

The number of WARNs approved from the 1st of September 2017 to the 31st of October 2017 is 5; 3 waivers and 2 non adherences.

				Approved Total
Row Labels	E	H	J	
Non Adherence to CPRs				2
24/10/2017				
Agency fee for the appointment of an Interim S151 Officer		1		1
Direct Award to Network Rail to continue with additional scope/works to HS2 Project			1	1
Waiver to Requirements of Competition				3
05/09/2017				1
Actuarial reviews of Cheshire County Council and Cheshire East insurance funds	1			1
15/09/2017				1
IKiosk For Libraries Shared Services Support and maintenance			1	1
20/10/2017				1
A review of the culture within the Council to be undertaken by the LGA		1		1
Grand Total	1	2	2	5

Code	Description of Category/code
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.
H	Other – Any other valid general circumstances up to the EU threshold
J	Procurement from any other source would be uneconomic at this time

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

WARNs	2014-2015	2015-2016	2016-2017	April 2017- Oct 2017
Non Adherence to CPRs	20	25	33	9
Waiver to the CPR's	62	45	40	21
Grand Total	82	70	73	30

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 is 30.

10.3 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 is due to be formally approved in December and implemented in January.

11.0 Access to Information

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

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