

## Regulatory & Audit Committee

<b>Title:</b>	<b>Standing Orders relating to Contracts – Exemptions Report</b>
<b>Date:</b>	27 <sup>th</sup> June 2013
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<b>Local members affected:</b>	N/A

### Summary

This report provides a summary as to compliance with the Council's Standing Orders relating to Contracts. The reporting period covers 1<sup>st</sup> January to 31<sup>st</sup> March 2013.

### Recommendation

Members are asked to note this report.

### Summary

#### 1. Exemptions

Standing Orders relating to Contracts stipulate that a register of all exemptions applied for by Service Areas be maintained by Commercial Services on behalf of the S151 Officer.

For the three month period 1<sup>st</sup> January to 31<sup>st</sup> March 2013 24 exemptions were registered (compared to 16 for the three month period 1<sup>st</sup> October to 31<sup>st</sup> December 2012).

Of the 24 exemptions registered:

Total no. of exemptions registered	24
Total no. of exemptions cancelled during process	1
Total no. of exemptions recommended on behalf of S151 Officer	14
Total value of exemptions recommended on behalf of S151 Officer	£5,064,227



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Total no. of exemptions not recommended on behalf of S151 Officer	3
Total value of exemptions not recommended on behalf of S151 Officer	£142,250

Total no. of exemptions that are currently under review	3
Total value of exemptions that are currently under review	£280,000

Lowest value exemption	£12,500
Highest value exemption	£1,912,302

Total no. of exemptions raised retrospectively	4
Total value of retrospective exemptions	£744,866

#### Conclusion:

20.8% (5) of exemptions were sought on the basis of extending an existing contract to allow service provisions to become co-terminus with similar service provisions in order to merge multiple contracts into one contract or to carry out one tender exercise for multiple contracts.

8.3% (2) of exemptions were sought on the basis that there was insufficient time to undertake competitive tendering. Rationale includes that due to the existence of multiple contracts over the organisation of low value, and when amalgamated together exceeded EU thresholds, an exemption was needed to cover activity retrospectively and going forward until a competitive tender process has been complete.

16.7% (4) of exemptions were sought on the basis of it would not be appropriate use of public money to launch a full tender. In most instances the rationale has been made on the basis that the activity represents value for money or builds on work already undertaken, for example a continuation of a pilot to understand if the service and support delivers what the council needs it to and achieves value for money.

In two instances, Commercial Services challenged exemptions. Firstly, rationale included the lack of evidence to suggest that the provider was the only viable option for this service in the market and secondly the rationale included concerns on the provider delivering the service and whether this offer value for money against what could be delivered internally.

50% (12) of exemptions were sought on the basis that there was no viable alternative. Rationale includes the activity represents value for money and that a particular provider has either the expertise or opportunity to deliver the requirement quickly and without BCC incurring additional costs. In one instance, the goods were so unique; the provider was the only viable option in the market.

Commercial Services challenged one exemption due to the reason that the service areas had sought a previous exemption the year before and that exemption was supported on the basis that a competitive tender be conducted in good time.

4.2% (1) of exemptions of were sought on the basis of specialist expertise. In this instance the activity could not be performed by Ringway Jacobs which resulted in BCC commissioning the services directly.

It continues to be a priority for Commercial Services to assess and update the exemption process. Through identifying the non-value adding activity within the process and testing the draft process and form with service users, Commercial Service hope to be in a position within the Quarter 2 to be able to deliver a more efficient process.

Please see **Appendix 1** for further information about exemptions registered during the reporting period.

## **2. Use of eSourcing**

The volume of activity through the corporate eSourcing portal is lower than expected but is increasing year on year.

Service Directors were asked to provide a statement of compliance in respect of using the portal for sourcing and to provide a copy of their contracts registers so that assumptions could be tested. Where returns were not received Service Directors were called in by cabinet to explain the reasons for non compliance.

Assessments of the returns were undertaken using spend data but this proved more difficult than anticipated due to how the data is configured in SAP. This has highlighted that we need to capture the right information at the right time in the purchasing process to monitor compliance. This is currently being addressed under P2P Project and is high priority for Commercial Services.

Increasing the use the portal continues to be a priority for Commercial Services.

Please see **Appendix 2** for further information about eSourcing use during the reporting period.