

## **Regulatory & Audit Committee**

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<b>Title:</b>	<b>Standing Orders relating to Contracts – Exemptions Report</b>
<b>Date:</b>	June 2014
<b>Author:</b>	Rose Younger, Commercial Manager
<b>Contact officer:</b>	Rose Younger X 2019
<b>Local members affected:</b>	N/A

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> April 2013 to the 31st March 2014.

In light of Future Shape there is a substantial amount of work being done to review Contract Standing Orders.

### **Recommendation**

Members are asked to note this report.

### **Summary**

#### **1. Exemptions**

- 1.1. This report records all cases where service areas have presented a case to not comply with contract standing orders.
  - 1.1.1. Each such application is reviewed on a risk based approach.
  - 1.1.2. Contract Standing Orders require that Commercial Services maintains a register of all such requests from Service Areas.
  - 1.1.3. There were a total of 82 registrations in FY 2013-14
  - 1.1.4. The trend graphs (Fig 3 page 6) shows an increasing trend.
    - 1.1.1. The lowest value application was £3000
    - 1.1.2. The highest value application was £6,500,000
    - 1.1.3. Of the 82 exemptions registered, 21 were above £174,000
    - 1.1.4. Each of these represents a potential risk to BCC
    - 1.1.5. Future Shape will need to consider how exemptions will be managed and reported.

- 1.1.6. Future Shape is resulting in Service Areas extending and exempting contracts to allow for Business Units to be in place and commissioning outcomes to be identified before lengthy contractual commitments are entered into.

**1.2. Pro Contract (fig 5 - page 8)**

- 1.2.1. The use of pro-contract continues to grow.
- 1.2.2. A number of officers in Commercial Services have been trained as expert users to better support service areas.
- 1.2.3. Amey have now been trained and are using the system.
- 1.2.4. The number of suppliers registered on the system continues to grow.

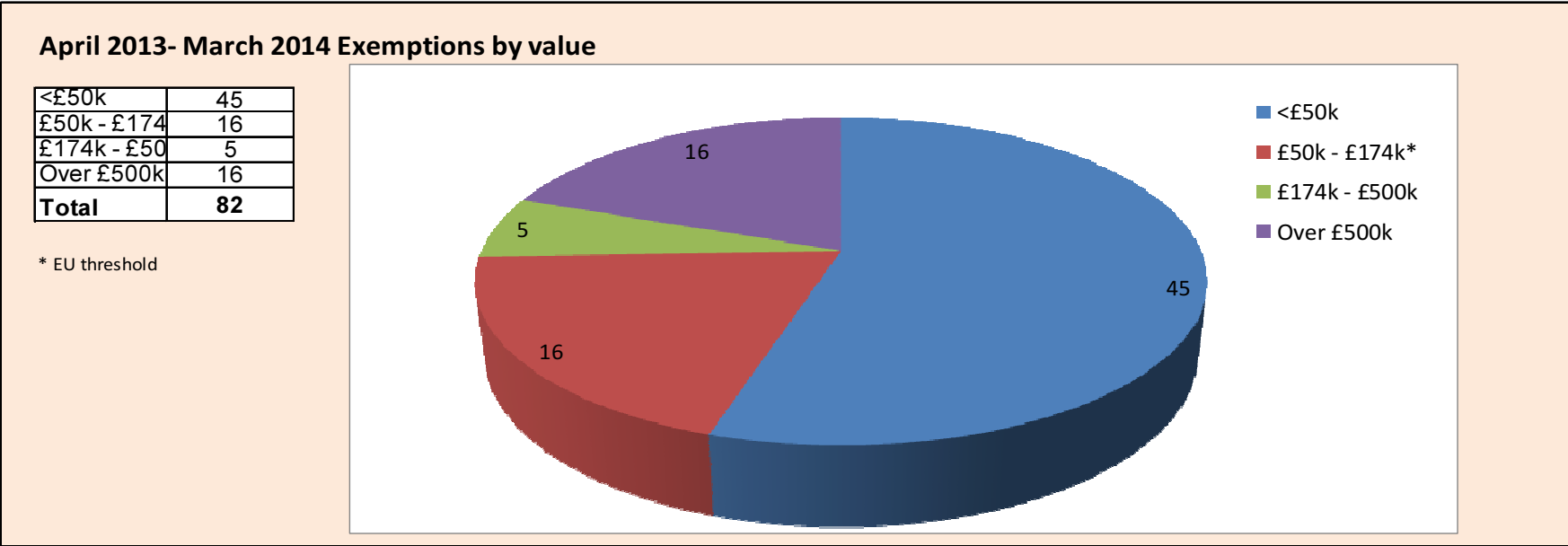
Rose Younger  
Commercial Manager

19<sup>th</sup> June 2014

**Fig. 1 - Data Summary**

	<b>Qtr1</b>	<b>Qtr2</b>	<b>Qtr3</b>	<b>Qtr 4</b>	<b>Total</b>
Total no. of exemptions registered	14	13	26	29	82
Total no. of exemptions cancelled during process	2	0	2	1	4
Lowest value exemption	£14,000	£15,000	£570.00	£3,000	N/A
Highest value exemption	£4,890,969	£3,900,000	£2,600,000	£6,500,000	N/A
Total no. of exemptions raised retrospectively	1	4	8	9	22
Total value of retrospective exemptions	£14,000	£153,882	£3,076,197	£8,557,527	£11,801,606

**Fig 2**



## **Rationale for seeking exemption (Total 82)**

34.9% (29) of exemptions were sought on the basis of extending an existing contract to allow future service provisions to be fully considered.

7.2% (6) 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.

12% (10) 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.

12% (10) of exemptions were sought on the basis that there was deemed insufficient time to undertake a competitive tendering process.

33.7% (27) of exemptions were sought on the basis of specialist expertise or unique product or service.

## **Mitigation activity**

Commercial Services continues to work closely with service areas on the full implementation of the Contract Management Application (CMA).

The CMA will provide reports of expiring contracts in advance to allow for proper resource planning.

Commercial Services will work more proactively to support Service Areas to ensure commissioning plans are in place and that procurement is undertaken sufficiently early to reduce the volume and necessity for exemptions from Contract Standing Orders.

## Appendix 1 – Exemption Analysis and Data Extract

12 month analysis of exemptions applied for under Standing Orders relating to Contracts.

### Fiscal Year 2013/14 – Quarters 1 - 4

#### Summary

	Qtr1	Qtr2	Qtr3	Qtr 4	FY 13/14
Total no. of exemptions registered	14	13	26	29	82
Total no. of exemptions cancelled during process	2	0	2	1	4
Total no. of exemptions recommended on behalf of S151 Officer	13	6	N/A under new process	N/A under new process	
Total value of exemptions recommended on behalf of S151 Officer	£10,278,951	£391,450	N/A under new process	N/A under new process	
Total no. of exemptions not recommended on behalf of S151 Officer	1	0	N/A under new process	N/A under new process	
Total value of exemptions not recommended on behalf of S151 Officer	£100,000	0	N/A under new process	N/A under new process	
Total no. of exemptions categorised as Low risk	N/A under old process	5	18	25	48
Total value of exemptions categorised as Low/Medium risk	N/A under old process	2	5	1	8
Total no. of exemptions categorised as high risk	N/A under old process	0	1	2	3

*Please note these figures represent the old and new system so figures do not tally*

**Fig 3 ALL EXEMPTIONS - TREND**

Apr-13	5	2
May-13	3	0
Jun-13	6	3
Jul-13	6	0
Aug-13	3	1
Sep-13	4	1
Oct-13	9	2
Nov-13	6	0
Dec-13	11	2
Jan-14	7	0
Feb-14	9	5
Mar-14	13	5
<b>Total</b>	<b>82</b>	<b>21</b>

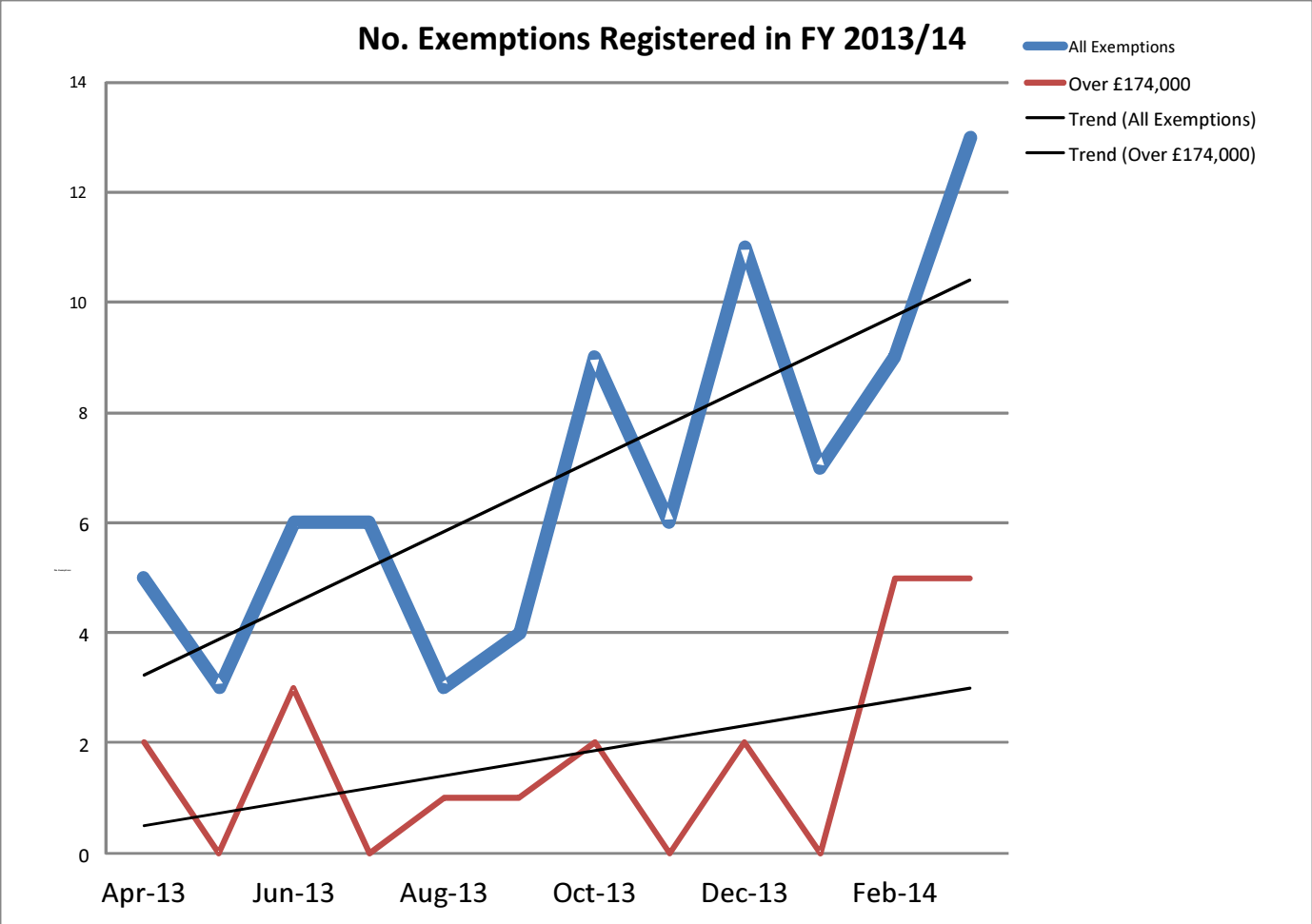


Fig 4:

<b>Exemptions to Contract Standing Orders by Service Area (April 2013- March 2014)</b>	<b>Below Threshold</b>	<b>Above Threshold</b>	<b>No. Med/High</b>
AFW Commissioning and Service Improvement	8	5	0
AFW Culture and Learning	2	0	0
AFW Service Provision	0	0	0
CYP Children and Families	4	1	0
CYP Learning, Skills and Prevention	5	4	1
CBE Localities and Safer Communities	8	1	0
CBE Place	8	3	0
RBT Customer Contact and Business Support	1	0	0
RBT Finance and Commercial Services	3	0	1
RBT Human Resources	4	1	0
RBT Legal and Democratic Services	0	0	0
RBT Service Transformation	4	2	1
RBT Support Services	1	0	0
Policy, Performance and Communications	2	0	0
Public Health	11	4	0
<b>Totals</b>	<b>61</b>	<b>21</b>	<b>3</b>

**Please note:** the Green column headed Med/High represents the number of exemptions/non-compliant contracts regarded as medium to high risk. These are counted within columns the above and below EU thresholds.

Fig: 5

Commercial Services					
ProContract Stats April – March 2012 – 2013 (Qtr1-Qtr4)			ProContract Stats Mar 2013 – March 2014 (Qtr1 – Qtr4)		
<b>Tenders &gt; £50k</b>	<b>Apr 12 –Mar 13</b>	<b>Est Value</b>	<b>Tenders &gt; £50k</b>	<b>Apr 13 – Mar 14</b>	<b>Est Value</b>
Finance & Commercial Services	26	£37,048,967	Finance & Commercial Services	17	£112,807,135
Public Health	-	-	Public Health	-	-
ICT	-	-	ICT	-	-
PPC	-	-	PPC	-	-
CYP	-	-	CYP	1	£3,500,000
AMEY	-	-	AMEY	4	£54,175,500
PLACE	1	£300,000	PLACE	50	£28,110,031
AFW	1	£90,000	AFW	5	£3,060,000
CBE	1	£150,000	CBE	-	-
	<b>29</b>	<b>£37,588,967</b>		<b>77</b>	<b>£201,652,666.00</b>
<b>Quick Quotes £10k up to £50k</b>	<b>Apr 12 –Mar 13</b>	<b>Est Value</b>	<b>Quick Quotes £10k up to £50k</b>	<b>Apr 13 – Mar 14</b>	<b>Est Value</b>
Finance & Commercial Services	1	£45,000	Finance & Commercial Services	-	-
Public Health	-	-	Public Health	2	£42,000
ICT	1	£48,000	ICT	1	£25,000
PPC	2	£60,000	PPC	2	£25,000
CYP	3	£37,600	CYP	2	£60,000
AMEY	-	-	AMEY	13	£150,290
PLACE	15	£405,500	PLACE	77	£2,016,223
AFW	-	-	AFW	2	£83,000
CBE	2	£80,000	CBE	4	£125,000
	<b>24</b>	<b>£676,100</b>		<b>103</b>	<b>£2,526,513</b>
No. of Suppliers Registered as at 31/03/13	<b>2,789</b>		No. of Suppliers Registered as at 31/03/2014	<b>3,363</b>	



