

APPENDIX A

WAIVER PROCEDURE RECORD (including breaches)

Title of contract	Description of Contract	Directorate	Contract Value	Duration	Primary Justification for a Waiver	Further Justification for a Waiver	Which part or parts of the Procurement and Contract Rules are being sought to be waived	What longer terms plans are in place to ensure compliant contractual arrangements	Reason for breach (if applicable)
Post Office Voucher Scheme: Pension Age Households	The contract is required to enable the city to maximise available funds from DWP directly targeting low income pension age households in the city, offsetting lower take up amongst pension age households of discretionary hardship grants. The Council require a provider that is suitably skilled and experienced and available to deliver the below services: •☒ Administration of mailout to qualifying CTS Pension age households supplied to the Post Office. •☒ Processing of cash payments from redeemable vouchers at a wide range of local outlets and sending a reminder to households •☒ Reporting of mandatory management information (number of awards) required by DWP.	Adult Social Care	£60,000	2 months	Avoidance of reputational damage		Clause 4.59 of the Procurement and Contract Governance Rules.	Planning is underway to review procurement options for Round 3 the DWP's Household Support Fund. The review of these options will include an assessment of timescales for an open procurement process and the accommodation of associated governance processes, alongside looking at the overall impact of previous rounds of funding in terms of their scale, impact and delivery methods.	
Ukraine Response Programme	Development and implementation of a digital solution to Refugee Resettlement tool	Strategy Equalities and Partnership	£330,000	3 months	Efficiency / expediency in relation to process		The key element in the Rules be waived is a Cabinet Decision in relation extending the existing contract, to formally compete the requirement.	No further extension will be required. A transition and exit strategy for the contractor is part of the service spec that has been developed for the work, so that our internal teams can continue the work and use and maintain the tool effectively.	
Vision Screening Services for 4-5 year old children - P0898	The services with 3 ophthalmic specialist providers identifies reception children aged 4 to 5 years with impaired sight to enable timely intervention. Screening for reduced vision in children aged 4 to 5 years is primarily undertaken to detect children with amblyopia, a form of abnormal vision system development. The most common predisposing conditions are strabismus (squint) and refractive error (focusing problems requiring glasses). Early detection of amblyopia is necessary to avoid permanent visual impairment by allowing treatment to be undertaken within the sensitive period of neuroplasticity (growth and change) in the visual system. The UK National Screening Committee recommends that screening of children's vision should be offered to all children aged 4 to 5 years. The commissioning of vision screening for school aged children (4 to 5 years) became the responsibility of local authorities in April 2013, as part of the Healthy Child Programme. In Birmingham the commissioning of vision screening remained with Birmingham and Solihull Clinical Commissioning Group as part of their wider contracts with the current providers and transferred to the Council in autumn 2021.	Public Health	£474,000	18 months	Efficiency / expediency in relation to process	Increased cost / loss of income	Table 2 of the Rules (Authorisations and Approvals) Reference to the contract extension clause was missing from the original Cabinet report despite this facility being included in all 3 executed contracts.	This service fall into the 0-19 Healthy Child Programme recommissioning project already underway. A co-terminus option to recommissioning these linked services together in one lot is a key option to explore further as part of the wider project. New arrangements will be in place from September 2024 onwards.	
Psychometric Provision for Senior Officer Recruitment	Psychometric Provision for Senior Officer Recruitment	Council Management	£9,500	1 year	Efficiency / expediency in relation to process		Table 1 of the Rules - Low Value Quotation £5k to <£25k process	A review of the approach to recruitment and selection for JNC Officers is currently underway. On conclusion of this review, and following recommendations and approval via CLT, a tendering activity will commence to procure the chosen approach to future JNC assessments. A 12 month waiver proposed here will allow for the conclusion of this.	
Home Connection Lettings – Choice Based Lettings Database	A database for the housing team used for lettings. Hosting and Support agreement. The HCL database will store up to 100'000 client properties and 50'000 registered users	Digital and Customer Services	£44,000	1 year	Request for noting for transparency as a formal Breach of the Rules	Avoidance of reputational damage	Request for noting for transparency as a formal Breach of the Rules	Contract expiry review is being undertaken on a regular basis to ensure effective procurement planning.	HCL is a hosted database solution which has been decommissioned but holding archived data; due to Intellectual property rights and data retention policies. The renewal of this solution was retrospectively processed due to staff shortages. Failure to act promptly would have had serious impact on the reputation of the Council and impacted legal obligations
Technology Forge CAFM licence subscriptions	Technology Forge CAFM licence subscriptions	Digital and Customer Services	£49,648	1 year	Request for noting for transparency as a formal Breach of the Rules	Avoidance of reputational damage	Request for noting for transparency as a formal Breach of the Rules	Contract termination notice provided therefore this contract will not auto-renew next year.	Technology Forge currently provide a on-premise solution, the technology has now moved to a hosted solution. The waiver process was used as there are currently no procurement frameworks in which to engage nor directly award Technology Forge in respect of the procurement. Therefore, we will be decommissioning the on-premise solution and moving onto a hosted solution which will be tendered via FIIB in 2023.

Technology Forge Housing licence subscriptions	Technology Forge Housing licence subscriptions	Digital and Customer Services	£11,542	1 year	Request for noting for transparency as a formal Breach of the Rules	Avoidance of reputational damage	Request for noting for transparency as a formal Breach of the Rules	Contract termination notice provided therefore this contract will not auto-renew next year.	Technology Forge currently provide a on-premise solution, the technology has now moved to a hosted solution. The waiver process was used as there are currently no procurement frameworks in which to engage nor directly award Technology Forge in respect of the procurement. Therefore, we will be decommissioning the on-premise solution and moving onto a hosted solution which will be tendered via FIIB in 2023.
Development of Birmingham City Observatory	System Development support with Datopian for the hosting of the Birmingham Data Factory	Strategy Equality & Partnerships	£59,000	4 years	Request for noting for transparency as a formal Breach of the Rules		Request for noting for transparency as a formal Breach of the Rules	The contract will run co-terminus with the Council plan i.e. to 2026. During this time the continued requirement for the City Observatory and this platform will be reviewed in line with the Council priorities.	The purchase of proprietary or patented Supplies or materials or Services which, are obtainable only from one supplier, and where no reasonably satisfactory alternative is available. Whereby a change cannot be reasonably made in the case of a business- critical system and/or strategic ICT solution (with proprietary licensing therein) for technical reasons such as, interchangeability and / or interoperability with existing back-office solutions and infrastructures. Original contract procured by Capita which did not follow Council governance procedures.
Highway Maintenance and Management PFI Restructuring Support	Specialist external advocacy, legal advice and support for resolution of settlement issues, expert advice (including technical and commercial expert advice) and contract restructuring and litigation advice in relation to potential disputes.	City Operations	£875,000	4 months	Request for noting for transparency as a formal Breach of the Rules		Waiver of Table 1 in the Rules	A new contract will be advertised in Find a Tender, Contracts Finder and www.finditinbirmingham.com and a tender process will be commenced using the open procurement route.	
Home to School Transport Guides	The provision of trained adult guides to escort or accompany children with additional support needs aged 0 – 25 to an agreed education establishment	Education and Skills	£499,000	3 months	Request for noting for transparency as a formal Breach of the Rules		Request for noting for transparency as a formal Breach of the Rules	A strategy report will be taken to Cabinet that will set out the future operating model for pupil guide services	In order to ensure that sufficient guides are available to enable children with SEND to get to school safely the council has temporarily extended an existing contract beyond its agreed contract term. This is a critical service. A further explanation as to why we are in this position, which has been impacted by resource implications a compliant procurement option was not in place.
Pre Employment Check Service	Pre employment check services carried out by a third party on behalf of the council to ensure that they are legally compliant with new legislation in undertaking identification checks, carrying out reference checks and other pre employment checks as required depending on the role.	Council Management	£65,000	6 months	Time constraints beyond the control of the Council	Avoidance of reputational damage	The areas highlighted above are required in relation to speed and efficiency, new legislation comes in to force on the 1 October in relation to how organisations must process pre employment ID checks and therefore the requirement is to have a system in place to be able to undertake this activity to ensure legislative compliance.	A procurement exercise will be completed in line with procurement rules prior to the end of the waiver	
Welcome Home Service - Home from Hospital	The Home from Hospital Support Service is a “Welcome Home Service” providing support to Birmingham citizens being discharged from hospital, as well as enabling their discharge. It is delivered by volunteers and Aftercare Coordinator staff (depending on the complexity of cases), supporting citizens to prevent a future readmission to hospital, as well as to ensure that citizens can be released from hospital and returned home at the earliest opportunity.	Adult Social Care	£145,000	6 months	Time constraints beyond the control of the Council		Clause 4.59 of the Procurement and Contract Governance rules in order to be able to then follow the negotiated procedure.	During the period that this waiver is requested for a commissioning strategy will be completed as well as a full tender process for a service that incorporates this one but also expands the offer to cover the areas identified by the ICB such as hospital avoidance and support to remain in the community post discharge.	
Interim HR Project Manager (Pay and Reward)	This role is to replace a Project Manager who left the Council on 5 August. This role is vital to the delivery of the Job Evaluation Programme within Total Reward.	Council Management	£90,400	6 months	Request for noting for transparency as a formal Breach of the Rules		Request for noting for transparency as a formal Breach of the Rules	Compliant recruitment will be performed for any further recruitment that is required for this post. CPS are to be engaged on this as required.	An existing procurement framework was used but appropriate approval for its use was not sought. Programme managers with suitable background are very rare and immediate action was necessary to secure an exceptionally experienced individual. Failure to act promptly would have lost the candidate and stalled the JE Pay and Grading programme for many months, creating a further equal pay burden.

EMERGENCY PROCEDURE

Title	Description	Directorate	Procurement Category	Whole Contract Value	Reason for Emergency	Contact Name	Approver	Date Approved	Recommendation
Procurement Implication for short term contracts to support private sector landlords temporary accommodation solutions	To set out the procurement process followed to date, options considered for the interim contracting approach and recommendations along with draft briefing note for the Cabinet Members.	City Housing	Place		Progress the award of new short-term block and framework contracts with existing providers for up to a period of 12 months (with a 28-day termination clause for both parties) in line with the emergency process in the PCGR and under PCR15 Regulation 32 (2) “The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases (b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons (ii) competition is absent for technical reasons”.	Gary Messenger / Dean Billingham / Haydn Brown	Cllr Sharon Thompson, CM Housing & Homelessness and Cllr Yvonne Mosquito, CM Finance and Resources	12/08/2022	The timing of the Cabinet report means that it will be retrospective, allowing proactive action to be taken to manage the situation and report these to Cabinet when appropriate in Oct / Nov 2022.

NEGOTIATED PROCEDURE REPORTS

Title	Reason for Applying Negotiated Procedure	Directorate	Contract Duration	Whole Contract Value	Company Awarded to
NP - Energy Rebate Post Office Voucher Scheme	Sole supplier that could issue the estimated number of vouchers within the deadline stated. The Council has until 30 September to make all eligible payments and the Post Office can process up to 22,000 a week. The use of the voucher scheme is also stipulated in guidance issued by the DLUC	Digital and Customer Services	3 months	£175,000	Post Office Ltd
NP - Go1 health literacy e-learning	Hays are the only contractor (as identified in our market investigation) who can meet the Council’s requirement as they are the only provider who can offer this service within the time-frame to the necessary level of bespoke detail required. Additionally, as they have a pre-existing relationship with the council, we already facilitate the rollout of their platform through our HR activities. Therefore, no further or new tools or platforms will need to tested for capability/usability. Additionally, Hays/Go1 host and own bespoke existing content on their platform which can be adapted for this project. No other provider has access to this content and as such is able to offer this option.	Public Health	1 year	£20,000	Go1
NP - Stewarding Advisory Services for the Commonwealth Games 2022	Given these activities are of a specialised nature, there is only one contractor with the necessary capacity and availability that can meet the Council's requirements with the ability to commence the services to meet the fixed deadline for delivery.	Commonwealth Games		£80,508	Massive (UK) Ltd

NP - Administration and Resources for Department of Works and Pensions Initiatives	There is an unprecedented amount of demand on the Benefit Service due to the impact of the cost of living fuel prices, continued impact from covid and DWP initiatives. This is not of the Council's making, to provide this service as failure to take action and to not have a continued experienced resource service for support could result in the Council not being able to discharge its statutory duties and leave the service unable to deal with the increased demand for benefits. There is currently a backlog of applicants who are not receiving their housing benefit/council tax support or local welfare. With Nottingham Revenues and Benefits Ltd the Council have staff provided that would not require a period of training and delay the processing of the applications. And the Council need to ensure this resource is in place whilst a compliant tender process is jointly undertaken	Digital and Customer Services	4 months	£100,000	Nottingham Revenue and Benefits Ltd
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NP - Energy Rebate Post Office Voucher Scheme	Sole supplier that could issue the estimated number of vouchers within the deadline stated. The Council has until 30 September to make all eligible payments and the Post Office can process up to 22,000 a week. The use of the voucher scheme is also stipulated in guidance issued by the DLUC	Digital and Customer Services	3 months	£25,000	Post Office Ltd
NP - City Readiness Advisory Support for the Commonwealth Games 2022	These activities are of a specialised nature, there is only one contractor with the necessary capacity, experience and availability that can meet the Council's requirements with the ability to commence the services to meet the fixed deadline for delivery.	Commonwealth Games	1.5 months	£15,000	Mclean Projects and Events Ltd
NP - Development of Birmingham City Observatory	Dataopian as a supplier already provide the CKAN product to BCC. We are negotiating additional capacity as a one off to support the launch of the new platform	Strategy Equality & Partnerships	4 years	£59,000	Dataopian
NP - Supply, Installation and Maintenance of Electrochlorination Units at Various Leisure Centres	As a result of market investigation undertaken, this proposed contract is for the purchase of proprietary or patented supplies and services which is obtainable only from one supplier, and no reasonably satisfactory alternative is available.	City Operations	2 years	£90,000	Crystal Water Technology Ltd
NP - Community Engagement Review	We have identified a provider that has relevant experience and skills with the capacity to deliver within our requirements and timescales. Bringing in outside expertise allows us to challenge and BE challenged as part of this understanding. It will allow us to showcase what is working well, understand what is not and clearly identify what's missing. It will also provide vital feedback on how to ensure we utilise reduced resources to maximum effect by streamlining our approach and illuminating duplication.	Strategy Equality & Partnerships	6 months	£50,000	Collaborate CIC
NP - Upgrade print software to Planet Press Connect	The purchase of a named product required to be compatible with an existing installation of Planet Press.	Council Management	5 years	£104,004	Pitney Bowes Ltd
NP - Quality Standards for non-commissioned Supported Exempt Accommodation contract - P0927	They are the only organisation with the knowledge and expertise to deliver the Quality Standards for Supported Exempt Accommodation Birmingham, and they have developed a unique product for this purpose.	City Housing	7.5 months	£158,098	Birmingham Voluntary Service Council
NP - Birmingham 2022 Countdown Clock De-rig and Relocation	The activities are of a specialised nature which can only be effectively carried out by only one supplier	Commonwealth Games		£43,574	XXK Projects Ltd