

## Audit Committee – 24 June 2022

<b>Title of paper:</b>	Exemption from Contract Procedure Rules quarter four 2021/22	
<b>Director(s)/ Corporate Director(s):</b>	Clive Heaphy Interim Corporate Director of Finance and Resources	<b>Wards affected:</b> All
<b>Report author(s) and contact details:</b>	Steve Oakley, Head of Contracting and Procurement steve.oakley@nottinghamcity.gov.uk	
<b>Other colleagues who have provided input:</b>	None	
<b>Does this report contain any information that is exempt from publication?</b> No		
<b>Recommendation(s):</b>		
<b>1.</b>	To note the number of exemptions from Contract Procedure Rules during quarter four of 2021/22	
<b>2.</b>	To note the actions being taken to ensure that contracts are awarded in line with Contract Procedure Rules and that exemptions only occur where there is a sound rationale for approving the exemption	

### 1. Reasons for recommendations

- 1.1 As part of the new Constitution all exemptions from Contract Procedure rules need to be reported to Audit Committee on a quarterly basis, Article 18.79. This report outlines all exemptions requested during the period from the commencement of the new Constitution in October 2021.
- 1.2 The original audit report identified actions needed across Nottingham City Council to address poor compliance with the old Financial Regulations and Contract Procedure Rules. This report also provides an update on actions taken and planned to improve compliance with the new Constitution and in particular Contract Procedure rules.

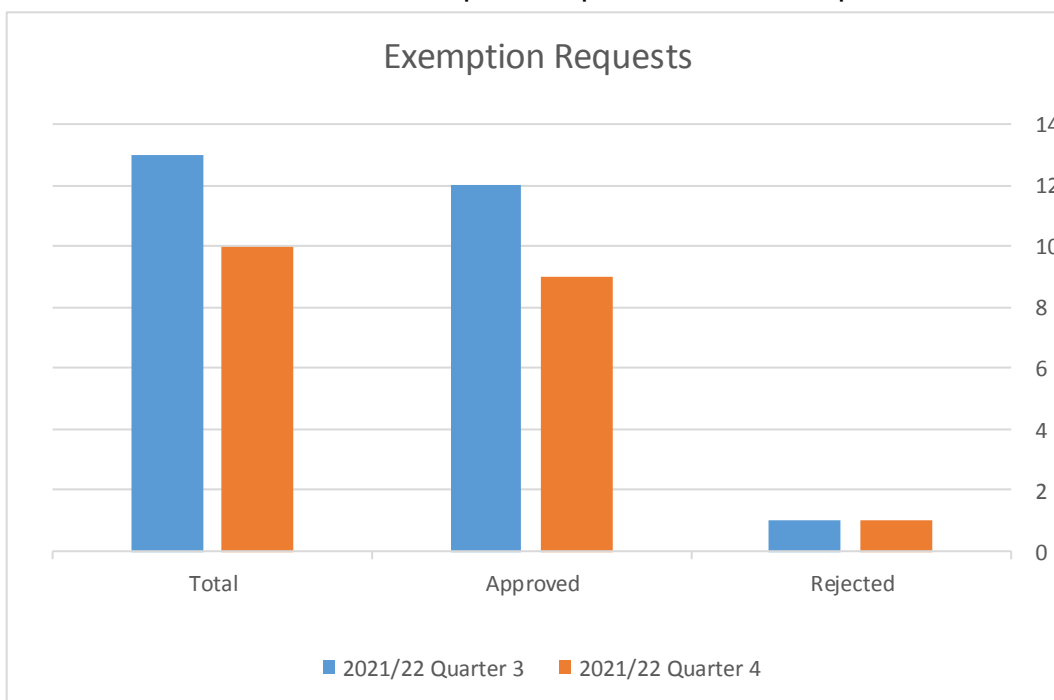
### 2. Background

- 2.1 An audit of Procurement Dispensations was undertaken in 2021 and identified significant non-compliance with Financial Regulations and Contract Procedure Rules which resulted in higher than would be expected requests for Dispensation from Financial Regulations.
- 2.2 With the development of a revised Constitution it was agreed to change the Contract Procedure Rules and include the need for a formal record of all exemptions to be taken separately to seeking approval for spend. Article 18 Contract Procedure Rules includes an exemption form that is completed whenever an exemption from Article 18 is requested. These forms are reviewed by the Head of Contracting and Procurement prior to seeking the approval of the Director of Finance and Resources. Once approved these are collated by the Head of Contracting and Procurement to ensure a comprehensive record of all exemptions is maintained.

- 2.3 There will always be some requests for exemption from Contract Procedure Rules as not all contracts can be let through a formal tendering or quotation process for various reasons. An example is where there is only one supplier for technical reasons.
- 2.4 Article 18.79 requires a report to Audit Committee on a quarterly basis of all exemptions from Article 18. This report provides the second quarterly report since the new Constitution was implemented in October 2021.
- 2.5 The following table outlines the number of exemptions requested and approved during the fourth quarter of 2021/22. Appendix 1 lists the 10 exemption requests with the reasons for the decision.

	Total	Approved	Rejected
2021/22 Quarter 3	13	12	1
2021/22 Quarter 4	10	9	1

- 2.6 The chart below shows the exemption requests to date for quarter 3 and 4 2021/22.



- 2.7 Of the approved requests eight were unavoidable with no alternative option to the exemption for various reasons. The other exemption may have been avoidable if plans had been developed earlier in the process, ie rather than seeking one quote three could have been requested at the same time.
- 2.8 The one declined request was refused as it was a retrospective request related to 2021/22. Work is underway for this project to put in place a contract as soon as practicable, likely to be March 2023.
- 2.9 The 9 approved exemptions total £1.6m. One exemption has a value of £550k which was unavoidable as a tender had been completed but the new provider required longer to implement the service, so an extension had to be agreed with the original suppliers to maintain a service during transition.

- 2.10 Procurement have been working with departments to ensure exemptions only come forward when there is no alternative. A number of potential exemptions have been avoided by putting in place a compliant process.
- 2.11 Exemption requests for this quarter are lower than the previous quarter and given only one could have been avoided this is now at a level would be expected by other authorities, when benchmarking data is considered. This is significantly lower than the dispensation requests that were at around 16 per quarter.
- 2.12 Key actions undertaken this quarter
  - 2.12.1 On a number of occasions Procurement have identified alternative options when colleagues have requested an exemption which has avoided the need for an exemption.
  - 2.12.2 The new operating model is nearing completion with implementation planned during the remainder of 2022/23. As part of this two training programmes are being finalised for Contract Management and Procurement. These provide training on best practice Procurement and Contract Management including implementation of Contract Procedure Rules.
3. **Background papers other than published works or those disclosing exempt or confidential information**
  - 3.1 **N/A**
4. **Published documents referred to in compiling this report**
  - 4.1 Follow-up audit report Contract Management 2021
  - 4.2 Internal Audit Report Procurement Dispensations
  - 4.3 Contract Management and Procurement Audits 2021
  - 4.4 Exemption from Contract Procedure Rules quarter three 2021/22

**Appendix 1**  
**Exemption outcome report quarter 4 2021/22**

<b>Title of Exemption</b>	<b>Division</b>	<b>Directorate</b>	<b>Supplier</b>	<b>Date Signed</b>	<b>Outcome</b>	<b>Value</b>	<b>Avoidable</b>	<b>Rationale for exemption/ Procurement Reason for Supporting</b>
CCTV Traffic Enforcement Maintenance	Traffic and Safety	Growth and City Development	Siemens Mobility Limited	20/01/2022	Approved	£187,505	N	Sole supplier award in line with Regulation 32 of Public Contract Regulations 2015
Bike Store Camera Operator	Transport Strategy	Growth and City Development	Oracle Surveillance	20/01/2022	Rejected	£50,000		Retrospective request – work underway to put in place a new contract from March 2023
South Glade Food Park	Property	Growth and City Development	Food and Drink Forum	20/01/2022	Approved	£100,000	N	Supplier has a lease on the property so award in line with Regulation 32 of Public Contract Regulations 2015
HRA Review Phase 2	Finance and Resources	Finance and Resources	CIPFA	20/01/2022	Approved	£80,000	N	Award to supplier that undertook previous phase and value below threshold for Public Contract Regulations 2015
Out of Hospital Care Model for Rough Sleepers	Regeneration and Housing Delivery	Growth and City Development	Evolve Housing Association	20/01/2022	Approved	£164,121	N	Grant conditions required naming of supplier and no time to tender. The contract value is below Public Contract Regulations 2015 threshold
Highways Licence System	Traffic and Safety	Growth and City Development	Symology	20/01/2022	Approved	£173,016	N	Alternative frameworks were explored but were more expensive than price quoted, therefore the direct award provided best value. The contract value is below the Public Contract Regulation 2015 threshold
Better Mental Health	Public Health	Peoples	Nottingham and Nottinghamshire CCG	07/02/2022	Approved	£90,595	N	Approval had been given for award via a Section 75 agreement but given value and timescale of the agreement a direct award contract would be appropriate in

								the circumstances
Laptops for Looked After Children	Education	Peoples	Stone Group	22/03/2022	Approved	£41,000	Y	Due to the need to get the laptops in for the children asap and the value being well below threshold this was approved
Real Time Passenger Information System	Public Transport	Growth and City Development	INIT and NCT	28/03/2022	Approved	£550,000	N	A tender had been completed for a new supplier but mobilisation required an extension to existing arrangements. Allowed under regulation 32 of PCR 2015
Safe Accommodation	Community Protection	Resident Services	Juno Women's Aid	28/03/2022	Approved	£241,800	N	Grant award timescales too short to allow for a tender and the contract value is well below the Public Contract Regulations 2015 threshold