

Audit Committee – 30th September 2022

Title of paper:	Exemption from Contract Procedure Rules quarter one 2022/23	
Director(s)/ Corporate Director(s):	Clive Heaphy Corporate Director Finance and Resources	Wards affected:
Report author(s) and contact details:	Steve Oakley, Head of Contracting and Procurement steve.oakley@nottinghamcity.gov.uk	
Other colleagues who have provided input:		
Does this report contain any information that is exempt from publication? No		
Recommendation(s):		
1.	To note the number of exemptions from Contract Procedure Rules during quarter one of 2022/23	
2.	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 April to June 2022.
- 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.

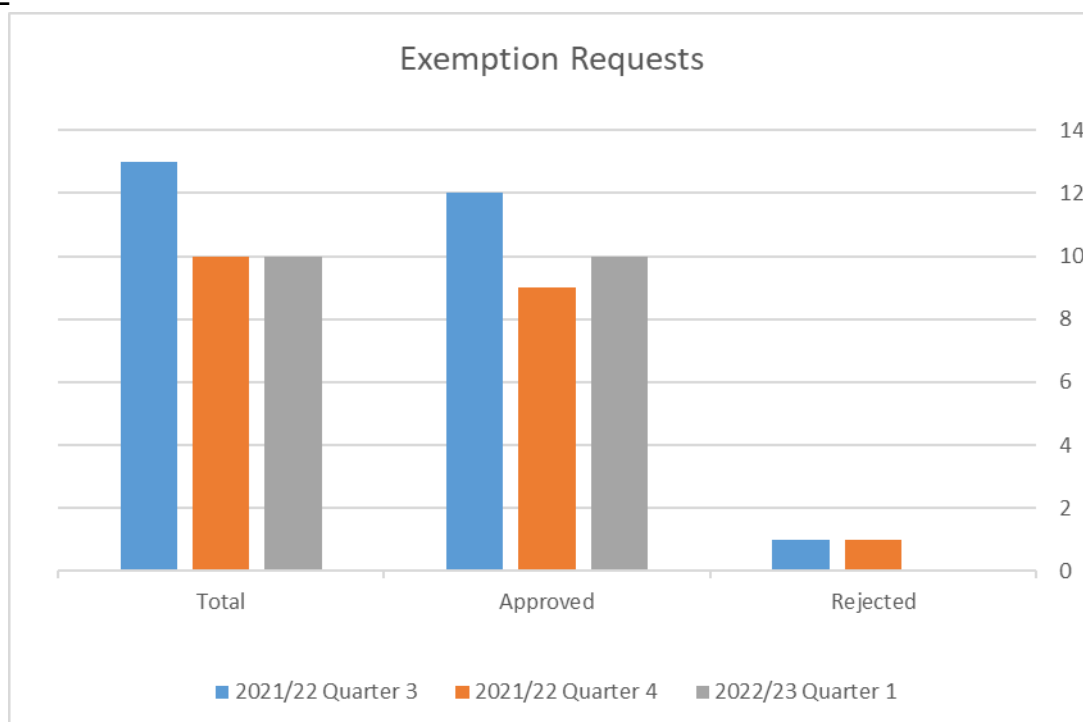
2. Background

- 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 third 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 first quarter of 2022/23 with figures for the previous two quarters. 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
2022/23 Quarter 1	10	10	0

- 2.6 The chart below shows the exemption requests to date from November 2021 to June 2022



- 2.7 Of the approved requests eight were unavoidable with no alternative option to the exemption for various reasons. The other exemptions may have been avoidable if plans had been developed earlier in the process.

- 2.8 The 10 approved exemptions total £2.84m. One exemption request was for £1.4m for a range of services to meet homelessness need. Work is underway to put in place a long term solution but due to the complexity and nature of the contracts was not ready to be used for this years round of Government funding.
- 2.9 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.
- 2.10 Exemption requests are slightly higher this quarter than quarter four, this is in part due to quarter one being the period when most contracts are awarded. Although this is still significantly lower than previous years dispensations. The original audit work had shown on average 16 dispensations/exemptions per month in 2020 and 2021 against the 10 this quarter and an average of 10.33 per month since the new constitution was launched in October 2021.
- 2.11 It is important to note that a number of the exemption requests this month have been needed to allow for longer term processes to be completed. These short term exemptions are allowing time for a review of options to be completed and new contracts established that deliver value for money in the long term.

Key actions undertaken this quarter

- 2.12 Procurement continues to work with departments to plan ahead of any procurement requirement and identify ways to procure without the need for an exemption.
- 2.13 Through the Compliant Purchasing Team, within Procurement, any request that is not compliant with Contract Procedure Rules is referred to the Category Manager to ensure it is added to the longer term Category plan or alternative compliant purchasing options implemented.
- 2.14 The proposed new operating model work has been completed and the costs of implementation have been included in the plans for 2023/24 budget.
- 2.15 The Contract Management and Procurement training programmes are now being formatted into e-training packages ready for dissemination to all colleagues that undertake any purchasing.

3. Background papers other than published works or those disclosing exempt or confidential information

3.1 None

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

4.5 Exemption from Contract Procedure Rules quarter four 2021/22

Title of Exemption	Division	Directorate	Supplier	Date Signed	Outcome	Value	Avoidable	Rationale for exemption/ Procurement Reason for Supporting
Telecommunications to the Traffic Control Centre	Traffic and Safety	Growth and City Development	BT	11/04/2022	Approved	£213,477	Y	Direct award below threshold of a temporary contract for up to 7 months to keep service functioning whilst a solution is found for a longer term contract. Outcome - to merge with other similar requirements and compliant contracts held corporately to ensure best value.
Infection, Prevention and Control	Public Health	Peoples	CityCare	13/04/2022	Approved	£189,090	N	Direct Award below threshold and sole supplier under regulation 32 – short term contract due to COVID
Wellesley House Homeless Accommodation	Regeneration and Housing Delivery	Growth and City Development	Bloom Social Housing CIC	13/04/2022	Approved	£271,816	N	Direct Award below threshold, allowed under regulation 32 of Public Contract Regulations. Due to change of provider in an accommodation based service
Rough Sleepers Initiative Grant	Regeneration and Housing Delivery	Growth and City Development	Various	13/04/2022	Approved	£1,452,723	N	A number of Direct Awards below threshold needed whilst new framework is put in place
Provision of alternative funding for bus route 22 and 23	Public Transport	Growth and City Development	CT4N Ltd	05/05/2022	Approved	£60,000	N	Direct Award below threshold and sole supplier under regulation 32. Only the supplier that delivers the specific routes can deliver the service until a review can be completed for a longer term solution
Energy Accreditation for	Carbon Reduction,	Growth and City	Elmhurst Energy	09/05/2022	Approved	£35,000	Y	Direct Award below threshold to existing supplier to allow

Carbon Reduction	Energy and Sustainability	Development						longer term solution to be procured
Demolition of the Elms	Property	Growth and City Development	Newline Midlands Limited	05/05/2022	Approved	£430,000	N	Direct Award below works threshold, needed for safety reasons on site
Bike Store Camera Operator	Transport Strategy	Growth and City Development	Oracle Surveillance	10/06/2022	Approved	£50,000	N	Direct Award below threshold, to current supplier to allow for formal tender for a longer term solution
Subscription to UK Tram	Public Transport	Growth and City Development	UK Tram	10/06/2022	Approved	£40,000	N	Direct Award sole supplier allowed under regulation 32 there currently is only one supplier that can provide this service within the UK
Accreditation of Swimming Teaching and other relevant services	Sport and Leisure	Resident Services	Swim England	10/06/2022	Approved	£100,000	N	Direct Award sole supplier allowed under regulation 32, only this supplier can supply the full range of requirements needed by the service