

Audit Committee – 30 June 2023

Title of paper:	Exemption from Contract Procedure Rules quarter four 2022/23	
Director(s)/ Corporate Director(s):	Ross Brown Corporate Director of Finance and Resources	Wards affected: All
Report author(s) and contact details:	Steve Oakley, Head of 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 four of 2022/23, the full financial year 2023/24 and the exemptions since October 2021	
2.	To note the actions that continue to be 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 October to December 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.

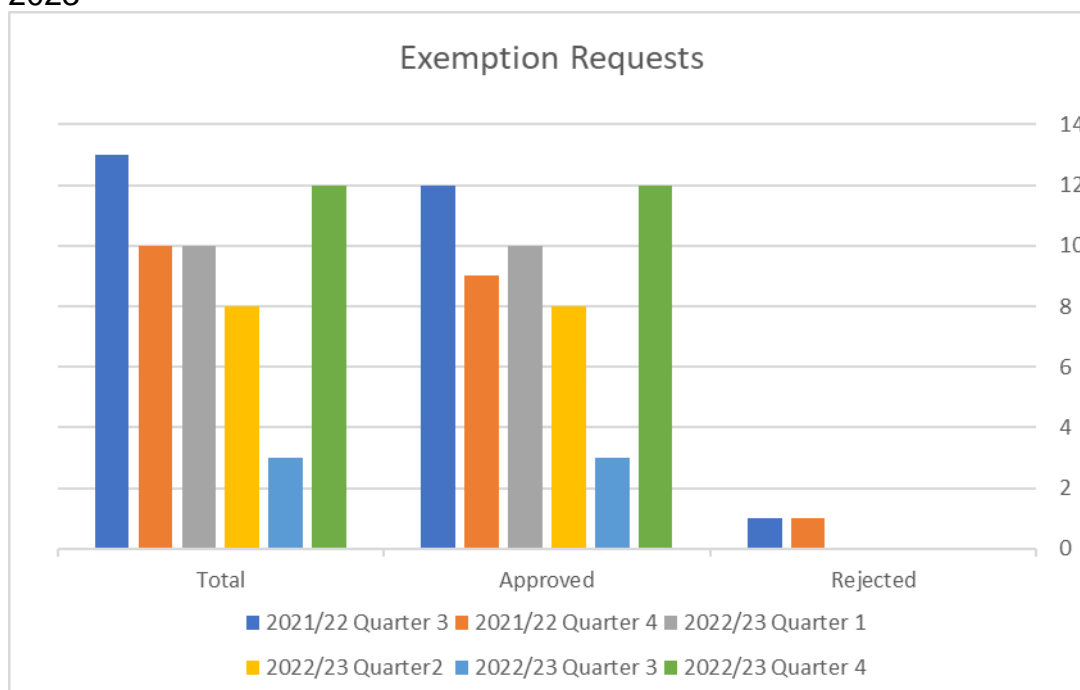
2. Background

- 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 Procurement prior to seeking the approval of the Corporate Director of Finance and Resources. Once approved these are collated by the Head 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 sixth 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 period from October 2021 to March 2023. Appendix 1 lists the three exemption requests with the reasons for the decision taken during quarter 4 of 2022/23.

	Total	Approved	Rejected
2021/22 Quarter 3	13	12	1
2021/22 Quarter 4	10	9	1
2022/23 Quarter 1	10	10	0
2022/23 Quarter 2	8	8	0
2022/23 Quarter 3	3	3	0
2022/23 Quarter 4	12	12	0

- 2.6 The chart below shows the exemption requests to date from October 2021 to March 2023



- 2.7 All requests were unavoidable with no alternative option to the exemption for various reasons.
- 2.8 The twelve approved exemptions total £4.495m with an average of £0.375m

- 2.9 Procurement continues to work with departments to ensure exemptions only come forward when there is no alternative. Wherever possible alternative solutions are found that do not require an exemption.
- 2.10 Approved exemption requests are higher this quarter than the three previous quarters related to year end work. Although on average over the full 18 months the number is significantly lower than the dispensation requests in 2020 and 2021. The original audit work had shown on average 16 dispensations/exemptions per quarter in 2020 and 2021 against the 12 this quarter and an average of 9.1 per quarter since the new constitution was launched in October 2021.
- 2.11 It is important to note that this month eight of the twelve would have been allowed under Public Contract Regulations 2015 (PCRs) for technical reasons, but needed an exemption from NCCs Contract Procedure Rules. The remaining four were all below PCR threshold and there were good reasons for each to be awarded following an exemption.

Key actions undertaken this quarter

- 2.12 Commercial Oversight Board set up for officer scrutiny of all commercial activity, procurement, commissioning and contract management. Exemptions will be discussed at the board from May.
- 2.13 New Commercial, Procurement and Contract Management handbook launched on the Intranet. Contract Management Training developed and live on the Learning Zone.

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

3.1

4. Published documents referred to in compiling this report

- 4.1 Exemption from Contract Procedure Rules quarter three 2021/22
- 4.2 Exemption from Contract Procedure Rules quarter four 2021/22
- 4.3 Exemption from Contract Procedure Rules quarter one 2022/23
- 4.4 Exemption from Contract Procedure Rules quarter two 2022/23
- 4.5 Exemption from Contract Procedure Rules quarter three 2022/23
- 4.6 Exemption from Contract Procedure Rules quarter four 2022/23

Title of Exemption	Division	Directorate	Supplier	Date Signed	Outcome	Value	Avoidable	Rationale for exemption/ Procurement Reason for Supporting
Eastglade phase 1&2 following insolvency	Regeneration and Housing Delivery	Growth and City Development	Lovell Partnerships	16/01/2023	Approved	£1,754,000	N	Direct Award below threshold and urgent work needed to secure site
Highways Statutory Undertakings Utilities	Highways	CERS	Various	23/01/2023	Approved	£900,000	N	Direct Award sole supplier under regulation 32, only relevant utility supplier can do work on their asset.
ITSO Membership	Public Transport	Growth and City Development	ITSO	24/01/2023	Approved	£100,000	N	Direct Award sole supplier under regulation 32, membership scheme
Wollaton Hall Festival 2023	Events	CERS	dhp Family	25/01/2023	Approved	£59,000	N	Direct Award below threshold, work being done to put in place longer term contract
District Heating Services and Works	Carbon Reduction, Energy and Sustainability	CERS	Thorne and Fairfield	01/02/2023	Approved	£865,805	N	Direct Award below threshold, tender underway for long term contract for 2024
Statutory Duty Safe Accomodation and SMD	Community Protection	CERS	Juno Women's Aid	01/02/2023	Approved	£237,478	N	Direct Award below threshold, tender underway for long term contract for 2025
Online technical indexes	ICT	Finance and Resources	HIS Markit	02/03/2023	Approved	£90,000	N	Direct Award sole supplier below threshold, no other supplier can provide service
Supply of merchandise and programmes for touring acts	TRCH	CERS	Various	02/03/2023	Approved	£140,000	N	Direct Award sole supplier under regulation 32, supplier is determined by the promoter
Advertising of events at TRCH on local public transport	TRCH	CERS	Adverta	02/03/2023	Approved	£50,533	N	Direct Award sole supplier under regulation 32, supplier determined by the owner of the advertising space
Infection, Prevention and Control	Public Health	Peoples	Ciycare	16/02/2023	Approved	£129,000	N	Direct Award below threshold of additional work to existing supplier, tender due for 2024/25
Road Safety Data Processing	Traffic and Safety	Growth and City Development	VIA East Midlands	10/03/2023	Approved	£140,000	N	Direct Award sole supplier under regulation 32, only one supplier can provide this data
Leaving Care App	Children's Integrated Services	Peoples	FocusGov	15/03/2023	Approved	£29,600	N	Direct Award sole supplier below threshold, no other supplier can provide service