

Audit Committee – 28 June 2024

Title of paper:	Exemption from Contract Procedure Rules – Quarter 4 2023-24	
Director(s)/ Corporate Director(s):	Ross Brown Corporate Director of Finance and Resources	Wards affected: All
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Other colleagues who have provided input:		
Does this report contain any information that is exempt from publication?		
No		
Brief Summary		
<p>This report provides data on the number of exemptions to Contract Procedure Rules which have been granted in Quarter 4 2023-24 and a summary of exemptions granted during the financial year.</p> <p>Assurance is provided to Audit Committee that Contracts are awarded in line with Contract Procedure Rules wherever possible and exemptions only granted where there is a sound rationale for approval.</p> <p>The report describes improvement actions taken by the Commercial Hub to continue to minimise the need for exemption requests, including a clear procurement pipeline, early engagement with services and training for procuring officers.</p>		
Recommendation(s):		
1	To take assurance from the number of exemptions from Contract Procedure Rules during Quarter Four of 2023/24 and the total exemptions for the financial year 2023-24.	
2	To accept the actions identified in the report provide assurance 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	
3	To agree to reduce the expectation of reporting on requests for exemption from Contract Procedure rules to an annual report as required by the constitution to reflect the reduction of approved requests.	

1 Reasons for recommendations

1.1 The Audit Committee's terms of reference include to:

- consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements
- provide an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards
- consider assurance of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment including emphasis on:
 - Governance risks around high level financial strategy and reserves
 - Governance risks connected to asset realisation
 - Governance of Capital Programme and projects
 - Value for Money and Delivering Objectives

- Governance of linked incorporated bodies

1.2 As part of the Constitution all exemptions from Contract Procedure Rules need to be reported to Audit Committee on an annual basis, Article 18.94. This report outlines all exemptions requested during the period from January to March 2024 and a summary of the year's performance

1.3 In response to concerns raised around the level of approved exemptions from Contract Procedure rules the committee requested quarterly reports to allow greater oversight whilst changes in procedure were introduced to reduce the number of exemptions from the Contract Procedure Rules. At the November 2023 Committee, during discussion of Agenda Item 12 Contract Management and Procurement Dispensations Audit Reports update the Committee heard that the number of approved exemptions had reduced by around 48% and that the action around requests (table 1 of the November 2023 report) was rated Green.

2 Background

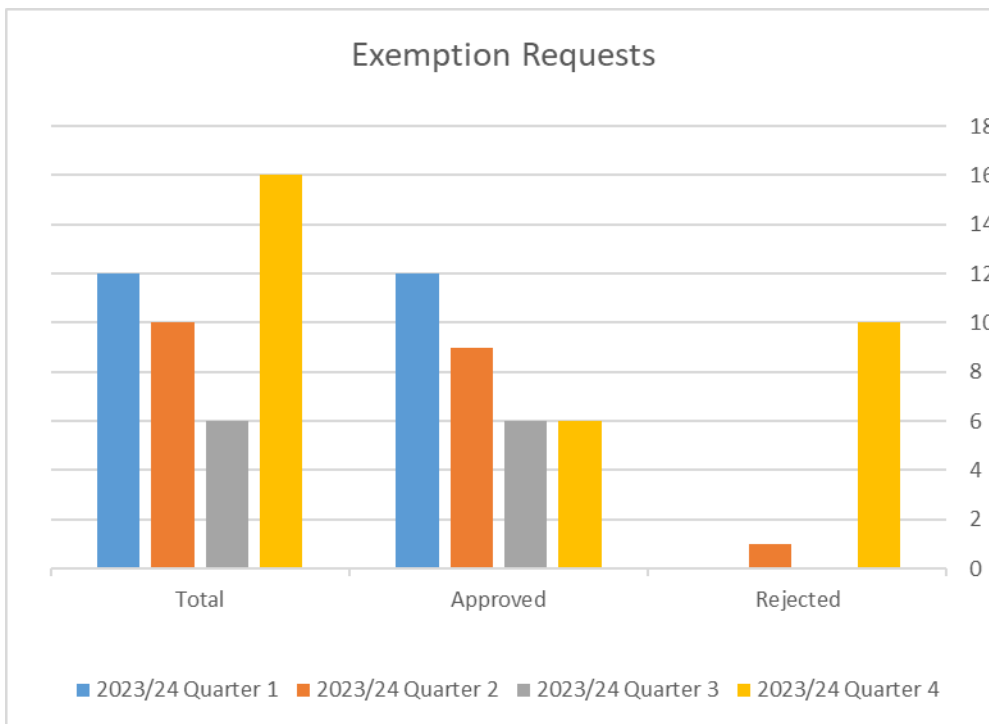
2.1 Contract Procedure Rules require the Head of Procurement to keep a formal record of all exemptions requested and agreed, to be taken separately to seeking approval for spend. Article 18 Contract Procedure Rules include an exemption form that is completed whenever an exemption from Article 18 is requested. 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.

2.2 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.

2.3 The following table outlines the number of exemptions requested and approved during the period from January to March 2024. Appendix 1 lists the 6 approved exemption requests with the reasons for the decision taken during Quarter 4 of 2023/24.

	Total	Approved	Rejected
2023/24 Quarter 4	16	6	10

2.4 The chart below shows the exemption requests for the full financial year 2023-24



- 2.5 Of the approved requests three were unavoidable with no alternative option to the exemption for various reasons (see Appendix 1). The other three exemptions may have been avoidable as these were due to delays in procurement processes and late engagement with the Commercial Hub.
- 2.6 The six approved exemptions total £3.525m with an average of £0.588m
- 2.7 9 requests were rejected by the Procurement Team as exemptions to Article 18 were not required. Processes were found to be compliant and approved in line with normal governance or the contract extensions procedure.
- 2.8 33 requests were approved in total during financial year 2023/24. This is equal to the previous years' approvals. Full-year figures for previous years are not available but comparative numbers of approvals in quarters 3 and 4 show a steady reduction from 20 to 12 approvals from 2021/22 to 2023/24.
- 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.

Key Actions this Quarter

- 2.10 The Commercial Systems and Strategy team has designed and implemented an eForm workflow for the submission and approval of requests for exemptions to Contract Procedure Rules. This allows a clear audit trail of request approval and ensures that Procurement Category Managers and Heads of Service are consulted and comment on requests before they are submitted to the Head of Procurement.
- 2.11 The procurement pipeline is shared on a monthly basis with Corporate Directors, via the Commercial Oversight Board. Future attendance at DLTs by the Head of Procurement and Procurement Category Managers is also planned. This will support planning with

departments and aims to further reduce late requests for procurement support as well as reducing requests for Exemptions to Article 18 where this is not required.

2.12 Procurement Category Managers engage with stakeholders to ensure any request that is not following best practice is added to the longer term Category plan or alternative compliant purchasing options are implemented.

2.13 Procurement and Contract Management Fundamentals training programmes are available on the Learning Zone. These are mandatory for all staff involved in procurement or contract management activity.

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 Nottingham City Council's Constitution

4.2 Audit Committee: November 2023 Agenda item 12 Contract Management and Procurement Dispensations Audit Reports update