

## Audit Committee - 27 June 2025

### Procurement Contract Standing Orders – Breaches & Waivers 2024/25

Purpose	For Review																				
Classification	Public																				
Executive Summary	<p>This report sets out the waivers and breaches of Contract Standing Orders which have occurred during the 2024/25 financial year and highlights the following:</p> <table><tr><td></td><td colspan="2">2024/25</td><td>2023/24</td><td>2022/23</td></tr><tr><td></td><td>Waivers</td><td>Breaches</td><td>Waivers</td><td>Waivers</td></tr><tr><td>Total (Count)</td><td>12</td><td>9</td><td>14</td><td>16</td></tr><tr><td>Total (£Value)</td><td>£0.7m</td><td>£2.7m</td><td>£6.13m</td><td>£2.95m</td></tr></table> <p>The lower value of approved waivers compared to previous years shows that less Council expenditure is now subject to an approved waiver. This means that a greater proportion of the Council’s total expenditure is subject to the full requirements set out in the Council’s Contract Standing Orders.</p> <p>An annual comparison of the number and value of breaches cannot be made due to this being the first year of reporting.</p> <p>Whilst no breaches of Contract Standing Orders is the preferable position, the relatively low number of breaches in overall context suggests a good level of understanding of the requirements amongst managers and officers in most service teams and has resulted in general compliance with Contract Standing Orders.</p> <p>An effective and transparent waivers and breaches governance process maximises the chances of achieving value for money and complying with procurement legislation when procuring goods, services or works.</p>		2024/25		2023/24	2022/23		Waivers	Breaches	Waivers	Waivers	Total (Count)	12	9	14	16	Total (£Value)	£0.7m	£2.7m	£6.13m	£2.95m
	2024/25		2023/24	2022/23																	
	Waivers	Breaches	Waivers	Waivers																	
Total (Count)	12	9	14	16																	
Total (£Value)	£0.7m	£2.7m	£6.13m	£2.95m																	

<b>Recommendation</b>	<b>1. It is recommended that the Audit Committee</b> <b>a. note the waivers and breaches of Contract Standing Orders that occurred during 2024/25.</b>
Reasons for recommendation(s)	To comply with Contract Standing Orders which requires that all breaches & waivers are considered annually by the Audit Committee.
Ward(s)	All
Portfolio Holder(s)	Councillor Jeremy Heron – Finance & Corporate
Strategic Director(s)	Alan Bethune – Strategic Director Corporate Resources, Section 151 & Transformation
Officer Contact	Josie West Strategic Procurement Manager 02380 285741 Josie.West@nfdc.gov.uk

## **Introduction and background**

1. This report updates Members on breaches and waivers of the Procurement rules set out in the Council's Contract Standing Orders, which should be read in conjunction with the Financial Regulations.
2. Contract Standing Orders provide a set of rules that must be followed in relation to the procurement of all goods, services and works by the Council. These procurement rules ensure that the Council complies with procurement legislation whilst obtaining value for money.
3. These rules must be followed by all individuals responsible for procurement for, or on behalf of, the Council.
4. The rules provide for limited exceptions to the prescribed rules which include the following:
  - Employment contracts
  - Contracts for the disposal or acquisition of an interest in land, existing buildings or other immovable property
  - Legal advice sought by the Legal Service Manager, connected with the business of the Council
  - Arbitration or conciliation services

- Financial advice sought by the Section 151 Officer in connection with Council business
  - Central bank services
  - Public contracts between entities within the private sector
  - Grants to external organisations
5. Where the above exceptions do not apply and a Contract Administrator has a valid reason for not complying with Contract Standing Orders, an application for a waiver may be submitted for approval. Table 1 shows the level of approval required for waivers for 2024/25:

**Table 1 – Delegated authority to approve waivers**

<b>Value of Contract</b>	<b>Approval Required</b>
£0 – UK Procurement Thresholds	As at 2024/25: Assistant Director – Governance (Monitoring Officer)  At present: Service Manager – Legal & Information Governance

### **Waivers granted 2024/25**

6. There were 12 applications for a waiver between 1<sup>st</sup> April 2024 and 31<sup>st</sup> March 2025, of which 12 were approved. The total value of all approved waivers was £698,817.08.
7. The table in Appendix 1 provides the detail of each of the approved waivers, with further background information and justification.
8. For comparison, the below table shows the number and value of waivers submitted over the previous three years:

**Table 2 – Waivers by year**

<b>Year</b>	<b>Number of approved waivers</b>	<b>Value of approved waivers</b>
2024/25	12	£0.7m
2023/24	14	£6.13m (13 at £1.3m, 1 at £4.8m)
2022/23	16	£2.95m

2021/22	13	£1.37m
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9. For 2024/25, the lower value of approved waivers compared to previous years shows that less Council expenditure is now subject to an approved waiver. This means that a greater proportion of the Council's total expenditure is subject to the full requirements set out in the Council's Contract Standing Orders.

### **Breaches in 2024/25**

10. A breach of Contract Standing Orders is where a spend is identified that should have been subject to a tendering process but was awarded without being subject to a tendering process or a waiver sought.
11. The Strategic Procurement Manager produces and circulates Spend Analysis reports to the Senior Leadership team every four months. These reports have been analysed to identify any breaches of Contract Standing Orders that were not requested via the waiver process.
12. During the financial year 2024/25, 9 breaches have been identified, totalling £2.7 million. The Council's total spend on goods, services and works was £53.3 million, and therefore the percentage of spend that breached Contract Standing Orders was 5%.
13. The table in Appendix 1 provides the detail of the breaches that have been identified and the proposed actions.
14. An annual comparison of the number and value of breaches cannot be made due to this being the first year of reporting.
15. Whilst no breaches of Contract Standing Orders is the preferable position, the relatively low number of breaches in overall context (5% of the overall spend) suggests a good level of understanding of the requirements amongst managers and officers in most service teams and has resulted in general compliance with Contract Standing Orders.

### **Corporate plan priorities**

16. Transformation priority 3 'being financially responsible' commits the Council to deliver value for money to our residents through our procurement. Where contracts are awarded directly to suppliers without testing the market, we cannot be assured that we are receiving best value. It is therefore imperative that the actions proposed in Appendix 1 are completed in 2025/26.

## **Options appraisal**

17. Lack of action would result in the Council acting in contravention to its own procurement rules and could result in the Council and its resident not receiving best value or high-quality services.

## **Consultation undertaken**

18. Consultation on the contents of this report has been undertaken with the Service Managers where breaches have been identified.

## **Financial and resource implications**

19. An effective and transparent breaches/waivers governance process maximises the chances of achieving value for money when procuring goods, services or works.

## **Legal implications**

20. The Council is bound by procurement regulations which apply to any contracts above the thresholds set out in Schedule 1 of the Procurement Act (2023). The most common types of contracts and their thresholds are set out below:

Works contract £5,372,609

Contract for the supply of goods or services £214,904

21. For contracts above these values, it is imperative that the appropriate tendering process is followed to ensure compliance with legislation.

## **Risk assessment**

22. Failure to have appropriate financial regulations and procurement rules which ensures accountable and transparent processes are in place puts the Council at risk of challenge.
23. Non-compliance with procurement rules can result in the Council not achieving best value, due to directly awarding contracts instead of competitively testing the market.

## **Environmental / Climate and nature implications**

24. Non-compliance with procurement rules means that suppliers may not be being assessed in relation to the environmental / climate and nature implications of their proposals.

## **Equalities implications**

25. There are no equalities implications arising from this report.

### **Crime and disorder implications**

26. Any breaches of Contract Standing Orders have the potential of fraudulent activity. There were no instances of fraudulent activity identified during this review. The Procurement team works alongside the fraud and internal audit teams to ensure compliance and to identify and investigate any non-compliance. This reduces the likelihood of fraudulent activity.

### **Data protection / Information governance / ICT implications**

27. There are no data protection / information governance / ICT implications arising from this report.

### **Appendices:**

Appendix 1 – Breaches & Waivers

### **Background Papers:**

None