

Business Case for a Waiver to Contract Procedure Rules

A waiver to Contract Procedure Rules is a permission not to comply with certain Council's Contract Procedure Rules (CPRs) when awarding or extending a contract. It is not an authority to enter into a contract without further relevant approval.

Instructions:

1. Complete this request form including signature by the Assistant Director, Deputy Director or Executive Director as appropriate.
2. Send the form to the Assistant Director for Procurement and Contracts for review and approval as appropriate.
3. Procurement will retain a central record of approved waivers and send confirmation of the approved waiver to the service.
4. Retain the signed waiver record with all relevant contract documentation.

Requested information to be completed by Contract Manager/ Project Officer.

Contract name:	Stop Smoking Service
Supplier:	Solutions 4 Health
Contract Value:	Up to £100K pa
Annual Saving:	£0.
Proposed Start Date:	1 April 2021
Proposed End Date:	31 March 2022

Service:	Public Health
Exec Director:	Seona Douglas
Author of this request:	Yasmine Illsley, Public Health Programme Officer, Mobile 07812462819

1. Which Contract Procedure Rule(s) are you seeking a waiver from?

(1) Subject to Contracts Procedure Rule 9(1) (c), for a procurement valued over £10,000 but below £100,000, at least 3 written tenders or quotations shall be invited before a formal purchase order is issued specifying the supplies, services or works to be provided.

2. Why do you think a waiver is justified?

The current stop smoking service contract expires at the end of March 2021. The principle of jointly commissioning for Public Health services have been agreed by the 3 Chief Executives across all three local authorities last year. To that end, the recommendation for this contract is to jointly commission the next iteration of the contract in partnership with the two other Councils in the Berkshire West area.

That procurement is planned to take place over the next 18 months with an anticipated start date of 1 April 2022. This new contract was originally expected to be procured for a start date of 1 April 2020,

The COVID-19 emergency has led to the three authorities agreeing that that the extensive detailed work to design, procure and implement this new contract could not be feasibly resourced

at the same time as they, the current service provider and other potential bidders are having to devote their attentions to the response to the pandemic.

The delay in the start date of the jointly commissioned contract leaves Reading Borough Council in a position where an interim, 12 month contract is required to provide the services for the period between the end of the current contract and the start of the new jointly commissioned contract.

At the time of requesting the waiver, there is less than 8 months to go before a new contract and contractor must be in place. Although this does leave sufficient time for a relatively simple quotation exercise to be conducted, no preparation has yet been undertaken for such a procurement which would normally require several months of preparation prior to the launch of the competitive phase. The Council has only one officer with the required public health specialist knowledge and expertise to lead the development of an updated service specification and undertake the procurement process. That officer is currently required to support the Public Health consultant with the COVID19 response, as well as oversee the current provider's business continuity work, as part of contract management responsibilities and will also be the lead officer feeding into the joint procurement exercise.

It is unlikely that any new provider would be seriously interesting in taking over and mobilising a contract for such a short term, so the likelihood of any genuine competition for the contract is low.

A waiver is therefore justified to allow the direct negotiation of a new contract, with the current incumbent provider on the basis of continuing to deliver the stop smoking service on broadly similar lines to the current contract.

A waiver is therefore sought to make a direct award to the current contract provider for a minimum of 6 months, up to a maximum of 12 months, to allow sufficient time for a new joint contract for Berkshire West to be put in place, and ensure stability of the current stop smoking service. By tendering for a joint contract with other local authorities in Berkshire West, we will secure better value for residents and a more efficient and joined-up service in the longer term.

3. How does your proposal demonstrate value for money?

Please state benchmarking work / cost comparison to other suppliers for the same service to show value for money.

The cost and benefits to residents of continuing with the current service provider for a further 12 months maximum, outweigh any potential benefits that an alternative procurement could generate at this time. The reputational and financial risks to RBC of not making a contract award at this time are judged to be unacceptably high as there would be no service in place for a period of 12 months. as t

Please also confirm that you have the budget available to fund the proposed contract and confirm the budget source.

4. What are the legal risks associated with the waiver?

(Please address the risk of challenge within the supply market in question for this value of contract when justifying your proposal)



The contract value is well below that requiring an OJEU advertised procurement process so the risk of any successful challenge is extremely low.

[Advice should be sought from the Procurement and/or Legal team as appropriate]

5. Appendices (if appropriate)

- Options Appraisal
 - Benchmarking Information
 - Committee or other relevant decision
 - Legal Briefing
 - Other, please detail
-

Authority of the Assistant Director/ Deputy Director/ Executive Director

I authorise a waiver to CPRs as outlined above / subject to the following conditions:

.....
.....
.....
.....

Signed: 

Date: 10-11-2020

Position/ Job Title: Consultant in Public Health

Authority of the Assistant Director for Procurement and Contracts

I authorise a waiver to CPRs as outlined above / subject to the following conditions:

.....
.....
.....
.....

Signed: 

Date: 11-11-2020

Position/ Job Title: ASSISTANT DIRECTOR FOR PROCUREMENT & CONTRACTS