

Waiver to the Contracts Procedure Rules

Please note this request may **only** be approved in writing by one of the following Officers:

Please note that the Council may only waive its own Contracts Procedure Rules and not any legislative requirement.

Pav Ramewal (Chief Executive)

Relevant Chief Officer:

Jim Carrington-West (Deputy Chief Executive and Chief Officer Customer & Resources)

Richard Morris (Deputy Chief Executive and Chief Officer Planning & Regulatory Services).

Sarah Robson (Deputy Chief Executive and Chief Officer People & Places)

Adrian Rowbotham (Deputy Chief Executive and Chief Officer Finance & Trading)

If you require any guidance or advice regarding Contracts Procedure Rules, waivers or completing this request, please contact procurement@sevenoaks.gov.uk.

You may also wish to consult a member of the Procurement Assurance Group.

Contract Details	
Proposed Contractor:	Town and Country Housing Association (TCHA)
Goods/services to be provided:	Health and Housing Co-ordinator Handy Person Home Straight Officer Better Care Fund Co-ordinator
Total Value*:	Cost for Sevenoaks District Council for the above services is £140,000 p.a. (VAT inclusive)

*The total value figure should be the estimated whole life cost of the contract. Please indicate whether the sum is with or without VAT.

Justification for Requesting a Waiver	
<p>Please give the condition stated in paragraph 13 of the Contracts Procedure Rules under which the waiver is to be considered:</p>	<p>The work, supply or service is required as a matter of urgency and it is clear that the situation is complex and may well, without a waiver, ultimately lead to financial loss to the Council. This falls within the definition of circumstances where a waiver may be applicable under para 13.1 of the Contracts Procedure Rules.</p> <p>Please see also the comments provided by Legal, below.</p>
<p>Please summarise your reasons for believing that a waiver is both appropriate and permissible:</p>	<p>We have discussed the continuation of this service for 2023-2024 with Tonbridge and Malling Borough Council (TMBC) where we share a partnership agreement for the Health and Housing Coordinator and Handy Person posts. TMBC has agreed with their Procurement Team that due to the limited time to procure an alternative service by 1 April 2023, we procure during 2023/2024 for a service to commence 1 April 2024. This will enable us to provide continued service to local residents.</p> <p>We therefore wish to seek a waiver to our contract procedure rules to enable the continuation of the Town and Country Housing Association (TCHA) Home Improvement and Support Team service for 2023-2024 with which we have the following contracts in place, funded through the Better Care Fund:-</p> <p>Health and Housing Co-ordinator Handy Person Home Straight Officer Better Care Fund Co-ordinator</p> <p>The TCHA Home Improvement and Support Team service transferred from Peabody South East in 2022 and the above contracts are due to expire on 31 March 2023.</p> <p>The service started life as the West Kent Hospital Discharge Scheme. At the time of this scheme commencing, there were no other such providers and advice was given by SDC Legal that we would not need to procure. However, there are now several other providers who can offer this service and, having discussed this with colleagues at TMBC it is felt we should carry out a procurement exercise. However, we have a number of staff employed through this service and if we were to procure now, we would need to end contracts which would leave us with no service and have a detrimental impact on our customers.</p> <p>We very much value the services that TCHA has continued to provide to the community and wish to continue using the service through 2023-2024.</p>

	<p>Due to the tight timescales of the contract expiration and the complexity of the services provided, we are requesting a waiver to continue to use this service for 2023-2024. However, we confirm that we will look at alternative provision and whether they are covered on any frameworks we may access for these services during 2023-2024.</p> <p>Due to the limited time available to procure an alternative service that will ensure continuation of this important scheme and for the benefit of residents, we believe a waiver at this time is appropriate and will give SDC and partner organisations time to fully assess what alternative services may be available and by what procurement route.</p>
<p>Please confirm that your service has sufficient budgeted funds available to meet this financial commitment:</p>	<p>The Private Sector Housing budget has sufficient funds available through the Better Care Fund to deliver this service in 2023/2024.</p>
<p>Please summarise guidance provided by Legal Services:</p>	<p>We can confirm that a Responsible Officer who seeks a waiver of the Contract Procedure Rules shall do so only in advance and only in exceptional circumstances. All waivers must be fully documented; subject to a written report [this form]; and subject to approval in advance by the Procurement Assurance Group (PAG) who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.</p> <p>The application for a waiver will further be scrutinised by the Head of Legal and Democratic Services at a meeting of the Procurement Assurance Group, before approval.</p> <p>Your attention is drawn to paragraph 14 of the Contracts Procedure Rules. Where extensions to existing contracts are made the extensions must be determined in accordance with the contract terms, for a specified period and made in accordance with the principles set out in the Council's Procurement Manual.</p>
<p>Internal Audit comments:</p>	<p>There is an explained need for urgency and an expressed intention to undertake competition going forwards. However, it is not clear why full competition was not possible in time to meet the end of the contract on 31 March 2023 when the Council took over the contract in 2022.</p>

N.B. - Please note that for contracts exceeding the FTS procurement thresholds, the conditions for a waiver expressed in law must also be satisfied. Please contact Legal Services for guidance on these provisions, if applicable.

Financial Authorisation	
This section <u>must</u> be completed by an <u>independent</u> Officer able under delegated powers to authorise the use of Council funds to the value of the contract stated above.	
Authorising Officer signature and designation	

Risks Assessment – Threats and Opportunities Statement	
Please state any threats or opportunities which may arise in the following areas if a waiver is approved.	
Financial (inc. Value for Money)	A waiver will allow time to consider procurement going forward and whether this might be in partnership with other authorities as with the current contract, or whether there are financial benefits to having a bespoke service for Sevenoaks.
Legal	
Sustainability	
Service delivery	A waiver will ensure continuity of this established service whilst providing an opportunity to consider alternative providers.
Other	


Signed:..... **Date:**.....

Designation:.....

On receipt of the Chief Officers response, please retain this request on file and email a copy to procurement@sevenoaks.gov.uk

For Chief Officers use only:

I having considered the above request, I hereby authorise a waiver to Sevenoaks District Council's Contracts Procedure Rules to be applied to this contract.

Signed:  Date: 16 March 2023

Designation: Deputy Chief Executive & Chief Officer, People & Places.....