

## **COUNCIL**

**22 JANUARY 2015**

### **CONTRACT LETTING – EXCEPTIONAL CIRCUMSTANCES**

Portfolio Holder: Councillor Alan Jarrett, Deputy Leader and Finance  
Report from: Perry Holmes, Monitoring Officer  
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#### **Summary**

This report details contracts awarded in accordance with the provisions of the current Contract Procedure Rules, as set out in paragraph 1.8.2, Exemptions to Contract Procedure Rules, to deal with the letting of contracts in exceptional circumstances where it is considered to be in the best interests of the Council to do so, provided that the exemption does not breach any EU or UK Directive, Statute or Regulation.

#### **1. Budget and Policy Framework**

- 1.1 The constitution requires that the Monitoring Officer reports to Council the number of contracts recommended by Directors for award and approved by the Monitoring Officer under delegated powers and reliance on the exceptional circumstances permitted by Contract Procedure Rules 1.8.2.
- 1.2 Contract letting under exceptional circumstances is provided for within Medway Council's Contract Procedure Rules. This report is prepared in accordance with paragraph 1.8.2.3 of the Contract Procedure Rules.

#### **2. Background**

- 2.1 In accordance with Sections 1.8.2.1 and 1.8.2.2, individual provisions within the Contract Procedure Rules may be exempted in exceptional circumstances where it is considered to be in the interests of the council to do so, provided that the exemption does not breach any EU or UK Directive, Statute or Regulation.
- 2.2 The Monitoring Officer, further to requests from Medway Directors, has approved the following exemption requests since the matter was last reported to Council on 23 January 2014.

### **3. Exemptions Granted**

3.1 The Exemptions granted during 2014 were as follows:

#### **Exemption 1 - Community Equipment Service**

**Value:** £459,200

##### **Project Summary:**

- Extension to current contract sought to allow consideration for cross-service commissioning
- Services to be remodelled and incorporated with the NHS Medway Clinical Commissioning Group (MCCG) Community Equipment contract

##### **Rationale:**

- MCCG and the Partnership Commissioning Team have explored the possibility of procuring jointly and the potential benefits that could be delivered
- MCCG are under contract until 1 April 2015 (earliest opportunity for joint tender)

**Directorate seeking Exemption Request:** Children & Adults

**Date Exemption Approved by the Monitoring Officer:** 27 January 2014

#### **Exemption 2 - St Nicholas Day Service**

**Value:** £76,903

##### **Project Summary:**

- St Nicholas Day Service in Strood caters for clients over 65 with organic or functional mental health support needs. All clients attending the centre meet FACS criteria and are referred via care management teams or the initial intake team
- Exemption sought for a 12 month extension until March 2015 to allow for a wider review and the re commissioning of the day service to take place

##### **Rationale:**

- To allow a comprehensive review of the wider provision of day care services to be conducted that could incorporate other dementia services in Medway that might accommodate the users of this service

**Directorate seeking Exemption Request:** Children & Adults

**Date Exemption Approved by the Monitoring Officer:** 27 January 2014

### **Exemption 3 – HRA Repairs & Maintenance**

**Value:** £890,412

#### **Project Summary:**

- Contract concluded 31 March 2014, exemption sought with the incumbent provider for a period of up to 5 months to facilitate mobilisation of a new contract

#### **Rationale:**

- HRA Repairs and Maintenance Service needed to be maintained to ensure continuity of service
- Operational difficulties would have been experienced if an extension was not permitted and an interim solution had to be sought

**Directorate seeking Exemption Request:** Regeneration, Community & Culture

**Date Exemption Approved by the Monitoring Officer:** 27 January 2014

### **Exemption 4 – Provision of a Health and Lifestyle Trainers Service**

**Value:** £136,147

#### **Project Summary:**

- The provision of a Health and Lifestyle Trainer service is provided to offer one to one support to people experiencing poor health
- Exemption sought for an 8 month extension with the incumbent provider to allow for the review and redesign of the current service model

#### **Rationale:**

- Inappropriate to proceed until there was clarity around the Public Health budget
- Needed to incorporate changes in responsibilities and national priorities
- Allowing the redesign of the service could potentially increase the capacity and capability of the service, improve recruitment and training, improve access to and encourage people to explore local health services

**Directorate seeking Exemption Request:** Public Health

**Date Exemption Approved by the Monitoring Officer:** 19 February 2014

### **Exemption 5 – DAAT (Drug & Alcohol Abuse Treatment)**

**Value:** £500,000

#### **Project Summary:**

- Current contract concluded on 31 March 2014, exemption sought to extend with the incumbent provider for a further three months (on a month by month basis) to allow transfer of contract management and implementation to Kent County Council (KCC)

#### **Rationale:**

- Service transition to KCC to take place by 1 July 2014 – to run a formal tender exercise would be onerous and prohibitive in terms of cost effectiveness

**Directorate seeking Exemption Request:** Public Health

**Date Exemption Approved by the Monitoring Officer:** 19 February 2014

### **Exemption 6 – Financial Advisor**

**Value:** £46,050

#### **Project Summary:**

- Exemption sought to extend the current contract for three years for the provision of financial advisory services
- Finance team were due to go through significant change at senior management level over the next six – twelve months

#### **Rationale:**

- By establishing a long term contract with the incumbent provider continuity in the approach to the Councils investment strategies could be provided

**Directorate seeking Exemption Request:** Business Support

**Date Exemption Approved by the Monitoring Officer:** 19 February 2014

## **Exemption 7** – Young People’s Community Substance Misuse Services

**Value:** £102,868

### **Project Summary:**

- Partnership Commissioning Team procuring a specialist drug and alcohol intervention service for young people in Medway
- Exemption sought to extend the current contract for six months to allow time for the completion of the new procurement process and mobilisation of contract

### **Rationale:**

- Extending the contract with the incumbent provider would ensure service continuity and allow sufficient mobilisation to take place if required

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 19 February 2014

## **Exemption 8** – Early Help Contracts

**Value:** £110,283

### **Project Summary:**

- Medway Council in partnership with Medway CCG, has funded a number of organisations to deliver a range of Early Help Services
- Exemption sought to extend current contracts for twelve and eighteen months to allow for the re-commissioning of a realigned service provision

### **Rationale:**

- By retaining current arrangements Commissioners can ensure services remain available with minimum disruption to service users whilst allowing sufficient time for services to be reviewed against changing legal obligations
- As these contracts are statutory services, any threat to service continuity places the Council at risk of not meeting its legal obligations

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 19 March 2014

### **Exemption 9 – Avenues & MCHH**

**Value:** £1,497,060

#### **Project Summary:**

- Exemption sought for a six month extension to two contracts let as part of the Learning Disability Care Service
- The exemption would allow the two current contracts for the provision of care to run concurrently with the tenancy agreements for the buildings where the care is to be delivered

#### **Rationale:**

- To make any tender process for the re-commissioning of the requirement competitive the tenancy and the contract for care provision must start on the same date
- Allowing the alignment would also mean the retender can be subject to the new Supported Living DPS process and its associated benefits

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 19 March 2014

### **Exemption 10 – Community Meals**

**Value:** £107,652

#### **Project Summary:**

- Due to the likely timescale for financial assessments to be completed and for self directed support (SDS) to support people to access a hot meal through the provision of a direct payment, a twelve month exemption request was sought to extend the current contract

#### **Rationale:**

- Necessary timeframe required to move service users onto personal budgets and assessment/initialisation of personal budgets to take place
- Political and reputational risks to the Council of not being able to provide a hot meal provision

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 19 March 2014

### **Exemption 11 – Staff Discount & Benefit Scheme**

**Value:** £36,750

#### **Project Summary:**

- Medway Council utilises an employee discount scheme which have shown to increase morale amongst employees in addition to help encourage the use of local SME businesses which are signed up to offer staff discounts
- An exemption was sought to extend the current contract for a further five years with the incumbent provider of the staff discount and benefit scheme

#### **Rationale:**

- Benefits in continuity of service with the incumbent provider given the positive business relationship and their support of local businesses

**Directorate seeking Exemption Request:** Business Support

**Date Exemption Approved by the Monitoring Officer:** 24 April 2014

### **Exemption 12 – Home Improvement Agency (HIA) Technicians Service**

**Value:** £78,500

#### **Project Summary:**

- The HIA service assists households to undertake work through the Disabled Facilities Grant (DFG) Programme to help provide safe accommodation for households identified at high risk of domestic abuse
- An exemption was sought to extend the current contract for a further six months

#### **Rationale:**

- Medway Council was in the progress of procuring a joint Community Equipment Service with the CCG and the technicians service would be a Lot within this tender
- Legislative framework expected to change for DFGs in 2015 and the new framework is yet to be published. Extension would provide sufficient time for this work to be either retendered as a standalone provision or become part of a bigger housing provision

**Directorate seeking Exemption Request:** Regeneration, Community & Culture

**Date Exemption Approved by the Monitoring Officer:** 16 July 2014

### **Exemption 13 – HRA Estate Services Management & Service Review**

**Value:** £32,400

#### **Project Summary:**

- The HRA estate service management undertake cleaning, caretaking and maintenance work to communal areas within the HRA Estate
- An exemption was sought to extend the current contract for a further twelve months

#### **Rationale:**

- The 12 month extension would allow for the service to be remodelled and a 50/50 profit share arrangement could be put in place

**Directorate seeking Exemption Request:** Regeneration, Community & Culture

**Date Exemption Approved by the Monitoring Officer:** 16 July 2014

### **Exemption 14 – Virgin Media Contract**

**Value:** £405,541

#### **Project Summary:**

- Virgin Media currently provide Medway Council with network and telephony services. They have been providing Medway with this service since 1998.
- An exemption was sought to extend the current contract for a further 1 year.

#### **Rationale:**

- The proposal will enable Medway to formalise current provisions with Virgin Media and also generate a saving of £66,623
- The extension will enable ICT and Category Management to explore opportunities with Kent to provide a PSN service

**Directorate seeking Exemption Request:** BSD

**Date Exemption Approved by the Monitoring Officer:** 16 July 2014



### **Exemption 15 – Mother and Baby Services**

**Value:** £31,000

#### **Project Summary:**

- Elizabeth Court provided a support scheme for young homeless mums in Medway. The current contract covers 12 apartments and is delivered by Riverside ECHG and Orbit South.
- An exemption was sought to extend the current contract for a further 6 months.

#### **Rationale:**

- A procurement exercise was carried out with only 1 bid being returned. This bid was rejected for being non-compliant as the price offered exceeded the price ceiling. During the extension a review of the service will take place and market research into the identification of alternative providers.

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 7 August 2014

### **Exemption 16 – Supported living Services**

**Value:** £1,406,159

#### **Project Summary:**

- Supported living is an approach to housing and support for people with disability which enables them to own or rent their own home whilst having control over the support they receive.
- An exemption was sought to extend the contract for 6 months to allow time for this to be tendered using Dynamic Purchasing System (DPS).

#### **Rationale:**

- The service is currently commissioned on a spot purchase basis. As a result there is lack of control over price and providers are not subjected to any formal competition. Therefore it is proposed that this service is tendered using DPS.

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 10 September 2014

### **Exemption 17 – Old People Sheltered Housing**

**Value:** £229,863

#### **Project Summary:**

- The older people sheltered housing services are required to provide vulnerable older people with appropriate accommodation and support.
- An exemption was sought to extend the current contract until May 2016 to allow time for a review of the service to be undertaken.

#### **Rationale:**

- Existing models and provisions for sheltered housing accommodation is dated and no longer considered to be fit for purpose. Granting an exemption would allow development of a consistent and more responsive model of support for older people.
- The extension period would also allow for full consultation with residents, their families and other stakeholders.

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 08 October 2014

### **Exemption 18 – Parent Partnership Service**

**Value:** £44,246

#### **Project Summary:**

- The Parent Partnership Service is a statutory requirement that provides information, advice and support to the parents and carers of children and young people aged 0-25 with special education needs.
- A six month extension was granted to enable scoping of the service to be carried out.

#### **Rationale:**

- Due to a delay in the new code of practice being released, scoping of the service specification and budget was not able to take place and therefore a 6 month extension is being requested to enable this work to be carried out.

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 04 December 2014

### **Exemption 19 – Community Equipment (MCH Contract)**

**Value: £349,080**

#### **Project Summary:**

- The Community Equipment Service provides health and care equipment to FACS (Fair Access to Care Services) eligible residents of Medway. The service users who require support are elderly, have a physical disability, awaiting hospital discharge, or a combination of these.

#### **Rationale:**

- The 12 month extension will allow for officers to collect further details on financial budgets and legal advice.

**Directorate seeking Exemption Request:** Children and Adults

**Date Exemption Approved by the Monitoring Officer:** 03 December 2014

### **Exemption 20 – Davenport Garages Demolition**

**Value: £24,986**

#### **Project Summary:**

- Davenport Garages are made up of 3 sites, a recent tender exercise was undertaken to demolish sites 1 & 3 and to repair and decorate the garages at site 2 to bring them to an acceptable standard. This was to be achieved by reusing materials from sites 1 & 3. Once the contract was on site it became apparent that existing structure was worse than anticipated and a further £24,986 would be needed for new materials.

#### **Rationale:**

- Without the additional money the garages will not be able to be built.

**Directorate seeking Exemption Request:** Regeneration, Community and Culture

**Date Exemption Approved by the Monitoring Officer:** 10 December 2014

### 3. Analysis

- 3.1 A concerted effort has been made over recent years to reduce the number of exemptions to a minimum although it has been accepted that in an authority of this size which, for example, let contracts last year with a worth of some £100,000.00 that some exemptions will be necessary. Last year saw the second year of reductions from the number granted in 2011.
- 3.2 Although the decrease has not been maintained this year, as table 1 below illustrates, the levels now being granted are still below those of 2010 and 2011 and below the overall average for last five years. The resolve of the Monitoring Officer, supported by the Procurement Board, remains to provide robust regulation of the granting of exemptions whilst ensuring that contracted services continue to be delivered.

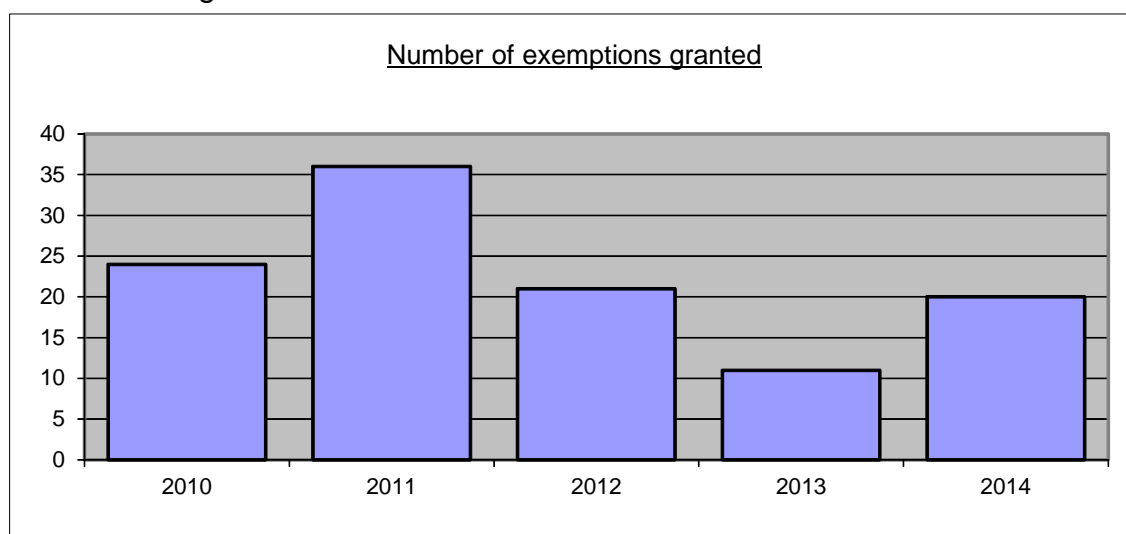


table 1

### 4. Risk Management

- 4.1 Category Management review each exemption request and provides quality assurance before recommending approval to the Monitoring Officer. As part of this review, risks are identified and managed and any exemptions, which do not conform to Contract Procedure Rules, are declined. The risks of accepting/rejecting all exemptions are identified and communicated to the Monitoring Officer to make an informed decision.

### 5. Financial and legal implications

- 5.1 The legal implications are set out in the report. The costs associated with the contracts were met from approved budgets.

### 6. Recommendation

- 6.1 To note the contents of the report.

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**Background papers**

None