

# MUNICIPAL YEAR 2019/2020 REPORT NO. 242

## MEETING TITLE AND DATE:

**Audit & Risk Management  
Committee**

**Date: 5<sup>th</sup> March 2020**

## Report of:

Fay Hammond  
Executive Director of Resources

**Agenda – Part: 1**

**Item: 6**

**Subject: Contract Waiver Monitoring and  
Procurement Spend April 2018 to March  
2019**

**Wards:**

**Cabinet Member consulted: NONE**

Contact officer and telephone number:

Claire Reilly, Head of Procurement & Commissioning Corporate Markets Ext: 2027

Peter Alekkou, Head of Procurement & Commissioning Place Market Ext 2596

## 1. EXECUTIVE SUMMARY

- 1.1 All Councils are required to have in place a set of rules which govern and control the procurement & contracting policies of the Council. Enfield Council meets this requirement through its Contract Procedure Rules (CPRs) which are contained within the Constitution.
- 1.2 Officers may request waivers to the CPRs where it is not practical or possible to procure in accordance with the standard Rules. This report provides a summary of contract waivers issued in accordance with the Council's Contract Procedure Rules for the period April 2018 to March 2019 and demonstrates the continued reduction in numbers.
- 1.3 This report provides information related to procurement spend in 2018/19.

## 2. RECOMMENDATIONS

- 1.1 To note and consider the contract waivers awarded in the reporting period.
- 1.2 To note the reduction in the number of waivers over the past 12 months which continues a downward trend.
- 1.3 To note procurement, spend in 2018/2019 financial period.

## 3. BACKGROUND

- 3.1 The Council may only contract with external parties within the legal framework for local authority procurement i.e. in accordance with the UK Public Contracts Regulations 2015 (as amended), the Council's Contract Procedure Rules (section 135 of the Local Government Act 1972), the general duty to obtain Best Value (Local Government Act 1999) and the European Treaty principles of transparency, non-discrimination of providers in member states and equality of treatment.

- 3.2 There are occasions where it is not practical or possible to procure contracts in accordance with the standard contract procedures. In such instances officers may request a waiver to the Rules, the procedure for which is included at Appendix 1. The approval of such waivers ensures compliance with the Contract Procedure Rules.
- 3.3 Appendix 2 provides a summary of each of the exceptions. It should be noted that for the purposes of this report the full supporting documentation behind each exception has not been provided but is available for further inspection if required.
- 3.4 Procurement & Commissioning Hub Operations Team report the number of Waivers issued per month to the Council's Procurement & Commissioning Review Board.
- 3.5 It should be noted that waivers cannot contravene EU and UK procurement legislation.
- 3.6 There were zero (0) waivers for the period April 2018 to March 2019. The number of waivers for the period April 2017 to March 2018 was one (1). In 2014 – 15 there were 40 waivers; which decreased to 10 in 2015/16. In 2017 there were 4; this report shows the dramatic decrease in waivers over the last 5 years.
- 3.7 Overall the number of waivers has decreased from 1 last year to 0 this year. This is a reduction of 100% in comparison with Financial Year 2017-2018.
- 3.8 The reduction in use of waivers may be attributed to:
- a) Stronger enforcement of the Contract Procedure Rules looking for procurement options to encourage procurement to demonstrate Best Value.
  - b) The mandated use of London Tenders Portal, the Council's e-tendering tool, has reduced the opportunity for non-compliance as the workflow within the system mirrors the Contract Procedure Rules.
  - c) Implementation of a training programme and working with services to get a wider understanding for the need to obtain VFM; which a waiver does not do.
  - d) Working with services to develop a forward plan to ensure better planning around procurement and allowing more time for planning and challenging where VFM has not been reviewed previously.

3.9 An analysis of the Exceptions authorised in the period April 2018 to March 2019 by department is as follows:

	Extension to allow service remodelling	Extension to facilitate full procurement	Specialist provider /Skills	Urgency	Other	Value of contracts excepted
CEX	0	0	0	0	0	0
Place	0	0	0	0	0	0
Resources	0	0	2	0	0	£167,296
People	0	0	0	0	1	£115,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>£282,296</b>

Exceptions are permissible within the CPR's under certain criteria.

Explanation of the exceptions recorded in Appendix 2.

### 3.10 Procurement Spend April 2018 to March /2019

3.10.1 Appendix 3 provides information in respect of procurement spend in 2018/2019 for services, goods and works, showing spend by category, top 50 suppliers and local spend.

3.10.2 The spend profile is typical for a tier 1 Local Authority with the main spend categories being People, Capital and Place.

Spend with local suppliers was £113m, equating to over 25% of total spend. The CPRs require officers to get quotes from local suppliers where possible, subject to best value considerations.

Previous financial period (2017/2018) spend with local suppliers was £82m; this has increased to £113m for 2018/19.

## 4. ALTERNATIVE OPTIONS CONSIDERED

4.1 There are no alternative options to consider as the Council is required to monitor waivers from the Contract Procedure Rules.

## 5. REASONS FOR RECOMMENDATIONS

- 5.1 To maintain the Committee's awareness of the improvements in compliance and provide Members with an opportunity to reflect on the impact this has on the Council's use of resources.

## **6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS**

### **6.1 Financial Implications**

There are no specific financial implications arising from this report.

### **6.2 Legal Implications**

The Council is required under the Local Government Act 2000 to have a Constitution, as part of that constitution the Council has the Contract Procedure Rules, which reflect applicable, current legislation such as The Public Contracts Regulations 2015. The Procurement & Commissioning Hub plays a pivotal role in ensuring compliance and works closely with Legal Services to ensure Officers within the Council are aware and understand their requirements with regards to procurement under the Contract Procedure Rules.

It is important to continue to have monitoring and reporting lines of this nature, especially since under the Localism Act 2011 any breach of EU rules could lead to fines being imposed on the Council directly if found to be in breach. It is therefore important to monitor waivers to ensure that they do not breach EU rules, putting the Council at risk of EU fines.

### **6.3 Property Implications**

There are no property implications.

## **7. Key Risks**

The Procurement and Commissioning Hub provides advice, guidance and support to officers in the Council to mitigate the likelihood of challenges being made against the Council for anti-competitive practices, which helps protect the Council's reputation. This is especially important in a climate of increased challenge in UK courts and the EU Commission.

The reporting of waivers is also key in terms of the Council's commitment to transparency with regards the use of public money.

Approval of such waivers helps ensure compliance with the Council's Contract Procedure Rules.

## **8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

### **8.1 Good homes in well-connected neighbourhoods**

By ensuring Value for Money through procurement, this ensures that the Council maintains its budgetary position and can support priority services and front-line services to support strategies for good homes and neighbourhoods.

## **8.2 Sustain strong and healthy communities**

Supporting front line services such as public health, adult social care, and children's services enabling them to deliver services that sustain strong and healthy communities

## **8.3 Build our local economy to create a thriving place**

The Contract Procedure Rules state that a local quotation must be sort wherever practicable to encourage the use of local suppliers.

## **9. EQUALITIES IMPACT IMPLICATIONS**

All procurement must be carried out in an open, transparent and equal way, to comply with EU, UK regulations and CPR's.

## **10. PERFORMANCE AND DATA IMPLICATIONS**

The report shows improvement in performance on the number of waivers issued.

## **11. HEALTH AND SAFETY IMPLICATIONS**

N/A

## **12. HR IMPLICATIONS**

N/A

## **13. PUBLIC HEALTH IMPLICATIONS**

There are no specific Public Health implications in relation to this report. However, the P&C Hub supports Public Health in it procurement to ensure VFM and support delivery of Public Health strategies.

## **Background Papers**

Appendix 1 – Waiver Procedure

Appendix 2 – Exceptions issued April 2018 to March 2019

Appendix 3 - Procurement Spend April 2018 to March 2019

## **Application & Waiver of the Rules**

- 6.1 These Rules apply to all contracts for Supplies, Works or Services entered into by the Council, except where a [waiver](#) of all or part of the Rules is approved. [Waivers](#) should only be sought in **exceptional circumstances** given the general presumption that competition is the best way to demonstrate Best Value.
- 6.2 The Council must comply with the requirements of [Public Contract Regulations 2015](#) as it is not possible to waive these requirements.
- 6.3 All waivers are reported to the Procurement and Commissioning Review Board and will be reported to the Council's Audit Committee on an annual basis by the Head of the P&C Hub.
- 6.4 The officer requesting the [waiver](#) **must** keep a written record of any waiver of the Rules. Application of a waiver can be made via the [standard form for waivers](#) and will be reviewed by the Head of the P&C Hub.
- 6.5 Contracts let via a [waiver](#) must have documentation held on the [E-Tendering Portal](#).
- 6.6 [Waivers](#) will only be issued for a period of 12 months, unless agreed otherwise by the Head of the P&C Hub.

**Appendix 2 – Exceptions April 2018 to March 2019**

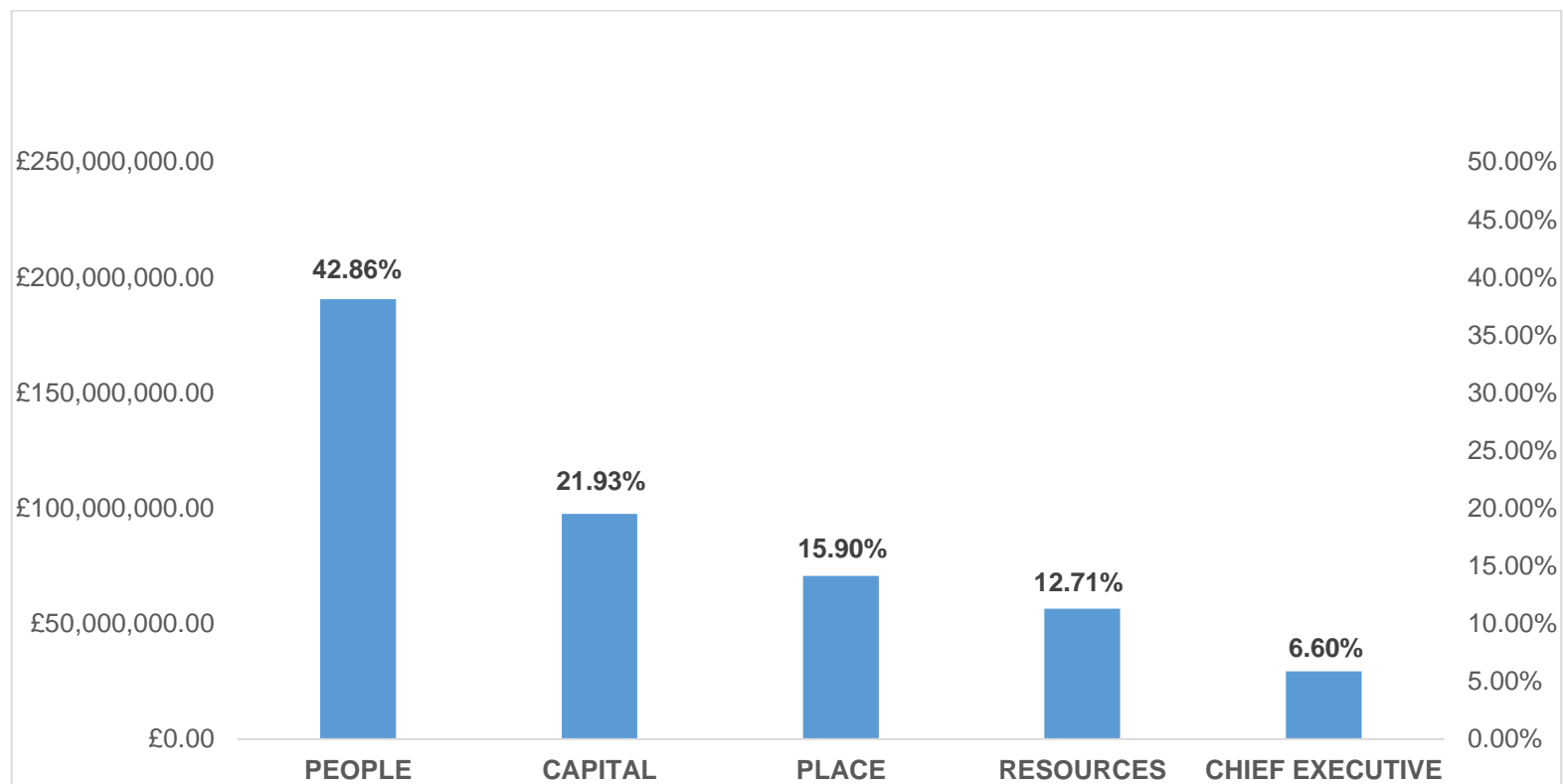
<b>Department</b>	<b>Reference Number</b>	<b>Procurement Title</b>	<b>Value</b>	<b>Supplier</b>	<b>Notes on Waiver Form</b>	<b>Date</b>	<b>Specific Exception Rule</b>
PEOPLE	DN453932	Temporary Social Work Team	£115,000	Paragon Locums	To further address the demands and relieve pressure in R&A it is proposed that a team of 5 experienced social workers and one team manager are commissioned urgently for a period of 12 weeks to reduce caseloads to an acceptable level in line with the Pan London agreement. The social workers will complete up to 25 assessments within 25 days. There are no other viable options that will enable us to move at such a rapid pace ongoing recruitment continues through normal processes and through a recruitment consultant.	4/2/19	It is an exception from CPRs. Special educational needs or social care contracts if, in the opinion of the responsible officer, following consultation with the Assistant Director Procurement, it is considered in the Council's interest or is required to meet obligations under the relevant legislation.

RESOUR CES	DN333915	Payment Kiosks for the London Borough of Enfield Civic Centre	£37,296	Cammax Ltd	We are purchasing 2 PCI compliant kiosks for the Civic Centre to meet our PCI compliance deadline for 1st August. The 2 current kiosks which take cash payments are not PCI compliant under the new legislation. There were 2 suppliers on the market who could provide the specific kiosks we require which integrate with Capita payments (AIM and Paye 360): Banking Automation (our current supplier) and Cammax. Banking Automation have declined to respond to the tender (confirmation email included in attachments) so Cammax are currently the only supplier able to meet our requirements.	19/4/18	It is an exception from CPRs. Where the goods, services or works are only available from a single supplier or are available only at a fixed price and no suitable alternative is available in accordance with EU procurement law.
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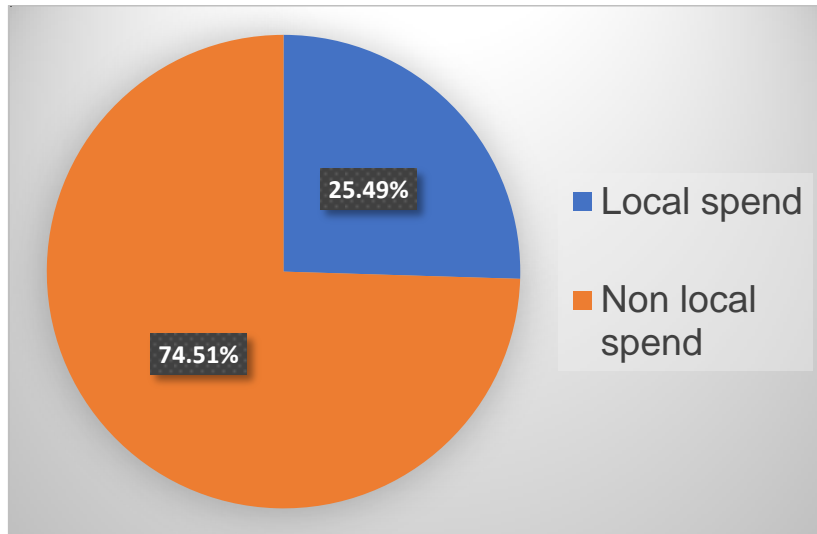
RESOUR CES	DN381002	Supply of SAP System	£130,000	Rimini Street	Rimini Street supply the SAP system which is council wide. SAP is used as the finance and HR tool. Without this supply of the SAP system, the council would not be able to operate. Rimini Street are the current vendor and the yearly contract is the only option, as legal has advised we cannot procure a contract for longer even though it saves money.	10/12/1 8	It is an exception from CPRs. The ongoing maintenance, updating and support of existing ICT hardware and/or software that are proprietary in nature and no suitable alternative supplier exists.
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**Appendix 3 - Procurement Spend April 2018 to March 2019**  
**Figure 1 – Spend by Category**



DEPARTMENT	SPEND	PERCENTAGE OF TOTAL SPEND
PEOPLE	£190,491,858.81	42.86%
CAPITAL	£97,468,364.94	21.93%
PLACE	£70,672,207.49	15.90%
RESOURCES	£56,495,330.38	12.71%
CHIEF EXECUTIVE	£29,339,875.74	6.60%
<b>TOTAL SPEND</b>	<b>£444,467,637.36</b>	

**Figure 2 – 2018/2019  
Local Spend**



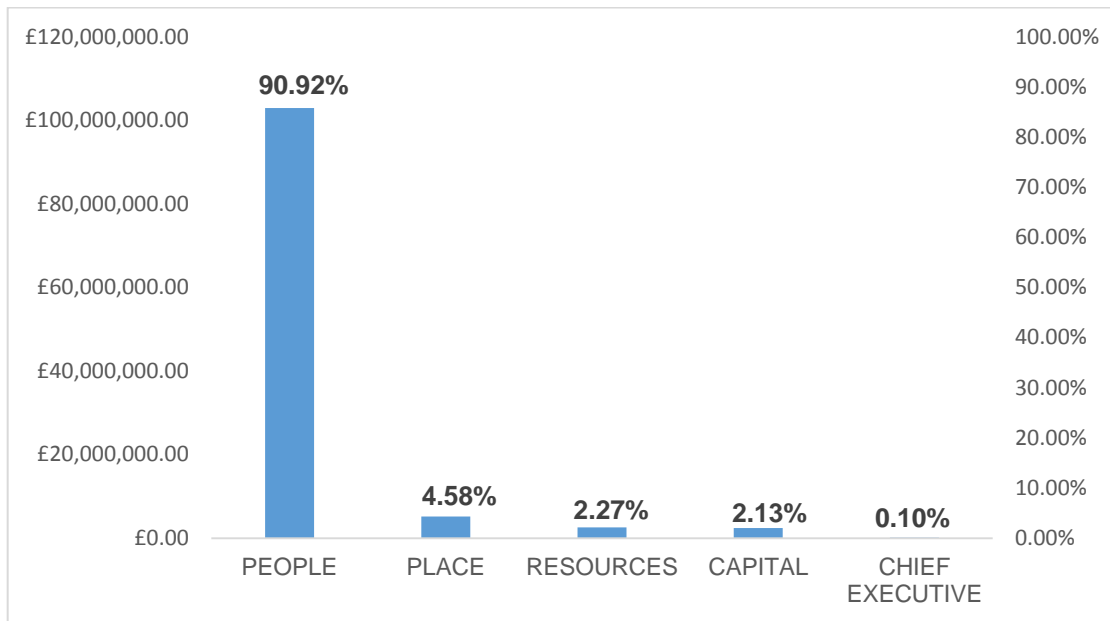
Local spend	£113,283,353	25.49%
Non local spend	£331,184,284	74.51%
Total spend	£444,467,637.36	100%

**Figure 3 - Top 50 Suppliers  
2018/2019**

SUPPLIER NAME	SPEND	% OF TOTAL SPEND
ADAM HTT LIMITED T/A ADAM	£30,025,225.23	6.76%
MATRIX SCM	£27,338,341.00	6.15%
NETWORK RAIL INFRASTRUCTURE LTD	£22,476,147.83	5.06%
INDEPENDENCE & WELLBEING ENFIELD LTD	£15,075,105.67	3.39%
COUNTRYSIDE PROPERTIES (UK) LTD	£11,469,076.43	2.58%
ENGIE REGENERATION LIMITED	£10,895,588.82	2.45%
RINGWAY JACOBS LTD - CIS	£10,046,066.06	2.26%
BARNET ENFIELD & HARINGEY MENTAL HEALTH	£9,407,338.29	2.12%
AMCM GROUP LIMITED	£7,784,913.61	1.75%
C.P DAVIDSON & SONS LTD	£5,635,530.98	1.27%
THOMAS SINDEN LIMITED	£5,590,110.00	1.26%
ENFIELD LIGHTING SERVICES LTD	£4,973,038.03	1.12%
SUNGARD AVAILABILTY SERVICES (UK) LTD	£4,871,245.74	1.10%
EDUCATION SUPPORT (ENFIELD2) LTD	£4,859,577.85	1.09%
CIVICA UK LTD	£4,512,590.15	1.02%
KIER PROJECT INVESTMENT LTD	£3,572,005.15	0.80%
NSL LIMITED	£3,492,155.05	0.79%
MULALLEY & CO LIMITED	£3,478,652.66	0.78%

PURDY CONTRACTS LTD	£3,226,022.92	0.73%
OVE ARUP & PARTNERS LTD	£3,194,062.26	0.72%
EDUCATION SUPPORT (ENFIELD) LTD	£3,019,062.49	0.68%
MARCUS & MARCUS LTD	£2,813,613.23	0.63%
R BORRAS CONSTRUCTION LTD	£2,703,330.97	0.61%
NORTH MIDDLESEX UNIVERSITY HOSPITAL	£2,663,296.14	0.60%
ERNST & YOUNG LLP	£2,349,166.66	0.53%
BARNET & SOUTHGATE COLLEGE	£2,145,794.61	0.48%
LAKEHOUSE CONTRACTS LTD	£2,072,641.06	0.47%
CARE IN FINANCE LTD	£2,058,803.25	0.46%
T BROWN GROUP LIMITED	£1,944,478.02	0.44%
GLENDALE COUNTRYSIDE LTD	£1,930,124.20	0.43%
RAAM CONSTRUCTION LIMITED	£1,908,761.45	0.43%
CAVENDISH CARS	£1,887,525.90	0.42%
VENN GROUP LTD	£1,851,668.59	0.42%
BIFFA WASTE SERVICES LTD	£1,848,883.42	0.42%
EDENVALE CARE LTD	£1,818,678.91	0.41%
COGNITION LAND & WATER LIMITED	£1,685,110.58	0.38%
SANCTUARY CARE LIMITED	£1,672,709.48	0.38%
NEILCOTT CONSTRUCTION LIMITED	£1,577,076.66	0.35%
XMA LTD	£1,558,491.80	0.35%
MCP PROPERTY SERVICES LTD	£1,545,245.96	0.35%
ENFIELD NORSE LTD	£1,460,954.06	0.33%
LURA CONSTRUCTIONS LTD	£1,455,805.35	0.33%
THOMAS RIDLEY & SON LTD	£1,453,708.63	0.33%
A&E ELKINS LIMITED	£1,378,450.00	0.31%
OCS GROUP UK LTD	£1,284,000.25	0.29%
STAMFORD CARE HOME	£1,263,465.50	0.28%
ELIZABETH LODGE	£1,237,792.64	0.28%
AVON LODGE UK LTD	£1,230,346.61	0.28%
MURRAYFIELD CARE CENTRE	£1,226,693.49	0.28%
MNM PROPERTY SERVICES LTD	£1,198,624.36	0.27%

**Figure 4 – 2018/2019 Local Spend by Category**



DEPARTMENT	LOCAL SPEND	PERCENTAGE OF TOTAL LOCAL SPEND
PEOPLE	£102,999,212.18	90.92%
PLACE	£5,188,292.92	4.58%
RESOURCES	£2,566,969.28	2.27%
CAPITAL	£2,418,547.82	2.13%
CHIEF EXECUTIVE	£110,330.85	0.10%
<b>TOTAL LOCAL SPEND</b>	<b>£113,283,353.05</b>	