

RECORD OF CABINET PORTFOLIO HOLDER DECISION

CONTRACT EXEMPTION

1. Decision Reference No.	PH055	
2. Decision made by	Portfolio Holder for Council Homes and Landlord Services	
3. Name and job title of Officer requesting the decision	Chris Flannery Housing Asset Manager cflannery@melton.gov.uk	
4. Title / Subject Matter:	Contract Exemption – Void Refurbishment Works	
5. Type of Decision:	Public	
6. Key Decision?	Key	
7. Contract type:	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	Goods Services Works

8. Decision Taken:

1. Authority to use a Contract Exemptions as detailed below to enable the Council to award contracts for urgent and emergency repairs and maintenance works to Council properties

9. Contract Details

Service area	Housing Assets
Short contract description	Void refurbishment work
Length of Exemption (months)	Six months
Exemption start date	31 January 2022
Exemption end date	31 July 2022

Total exemption value (£)*	£100,000 (estimate)
Cumulative value of all previous Exemption requests (if applicable)	

* Where the total value of the contract is £5,000 or more, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.

An award notice is required on Contracts Finder for all Contracts with a total value of £25,000 or above. Welland Procurement is responsible for such award notices. Officers must formally advise Welland of the award details, so that they can publish the award notice.

10. Exemption Details

Type of Exemption:	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	New Requirement Change to Existing Requirement Replacement to Existing Requirement Other – this exemption is to cover the requirement, as detailed in section 11 below
Which rule are you seeking an exemption from?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	To advertise To follow a competitive process Please note that this only relates to the aggregated amount. Individual disaggregated contracts will follow a compliant process, in line with the Council's Contract Procedure Rules in relation to one or three quotations.
Name of Proposed Provider:		Various
Has the requirement been subject to a previous Exemption?	<input checked="" type="checkbox"/> <input type="checkbox"/>	No Yes [If yes give details below]
Applicable Exemption:	<input type="checkbox"/>	(1) No genuine competition: proprietary or patented goods or services; requirement of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; compatibility with existing goods or services is required and where those existing goods or services can only be sourced from the same supplier.
<i>If the justification being relied upon is as detailed in here, the relevant Service Director will need to approve the exemption prior to it being submitted to the Director for Corporate Resources and the Director of Governance and Regulatory Services for approval.</i>	<input type="checkbox"/>	(2) There is a sound business case and/or an independent review that there is no value for money in running a full procurement process. Supporting evidence will need to demonstrate market testing and enquiries to other suppliers. This should not be used to avoid competition or where decisions to procure have been postponed and there are insufficient timelines to procure.

	<input checked="" type="checkbox"/>	(3) Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, bombing, landslide etc.
	<input checked="" type="checkbox"/>	(4) Urgent Situations not of the Council's own making: the urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exemption. Where this exemption is used, a compliant procurement must be implemented as soon as possible.
	<input type="checkbox"/>	(5) Collaborative/Joint Procurement: where another authority/public body is acting as the 'lead buyer' and provided that the Officer can demonstrate those arrangements comply with relevant Regulations and best practice.
	<input type="checkbox"/>	(6) Grants which the Council may receive or make: except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered. The awarding of grants by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination and value for money. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process.
	<input type="checkbox"/>	(7) Contracts for the execution of either mandatory works or provision of goods or services which must be provided by Statutory Provider other than the Council. This includes but is not limited to public utility companies and other legal authorities.
Details of benchmarking or market testing carried out		None
How will value for money be secured?		Although spend will dis-aggregated, the contract procedures for quotations will still be followed for each individual void.

11. Reasons for Decision:

Void refurbishment works to Council properties are currently carried out by our repair and maintenance contractor. In recent months, they have not been able to fulfil the requirement in a reasonable timescale, which has led to delays in the void process. This has been limited to major voids, the repair and maintenance contractor is still completing minor voids on time. This has led to the need to carry out a procurement for each individual void, using local SME's.

Due to these unforeseen circumstances, the Council has been unable to procure the works and as such is seeking an exemption to enable it to respond to service demand that the Contractor is unable to fulfil by procuring individual contracts on a case-by-case basis.

The team will continue to follow the contract procedure rules for each individual void. This will help to ensure that value for money is being achieved. Contractors will be selected from our list of health and safety approved contractors. Where applicable, the individual contracts will be entered onto the contract register / contract finder.

The void work is currently identified by using a national schedule of rates. Contractors can then submit a price based on a percentage adjustment to the rates. If the contractors pricing the work submit prices based on the same percentage adjustment it is proposed to use a rota basis to ensure a fair split of work.

It is anticipated that the issues with the current contractor will be dealt with within the next six months, therefore this is a short term exemption to cover that period of time.

12. Authority / Legal Power:

Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance & Democracy

13. Background Papers attached?

No

14. Alternative options available / rejected:

1. To continue with the Repair and Maintenance contractor. This was discounted as they can provide no guarantee the work will be completed, which would lead to voids being held for indefinite periods of time.
2. To procure a new contract for void works. This would take time and not allow void work to be completed in the short term. It is also probable that the rates issue with the current contractor will be resolved.

15. Implications:

Legal	<p>The Council has the power to enter into contracts in order discharge its functions (Local Government Act 1972, s111 and the Local Government (contract) Act 1997, s1).</p> <p>The Local Government Act 1972 requires the Council to have regulations for how it enters into contracts. In addition to complying with all relevant UK and EU legislation every contract entered into on behalf of the Council must also comply with the Council's Contract Procedure Rules and the Council's Financial Regulations. The Contract Procedure Rules provide exemptions but the exemptions listed do not apply to procurements valued above the relevant EU Threshold.</p> <p>Exemptions must be approved by the Director for Corporate Services and the Assistant Director for Governance & Democracy and are subject to one or more of the criteria being fulfilled. [Legal Approval 04 January 2021]</p>
Finance	<p>Major voids works would be expected to be covered within the Council's capital programme, either within the voids budget or a budget which is more reflective of the actual work completed. There are significant underspends within these budgets which will cover the £100k in this report over the 6 month period where carry forwards are used. Funding for these budgets has been committed from the Major Repairs Reserve. [Finance Approval 10 January 2022]</p>
HR	N/A

16. Signature of relevant Service Director:

N/A

17. Signature of Decision Maker with authority to sign

Signature redacted
Dawn Garton
Director for Corporate Services

18. Consultation with:

Email approval received
Kieran Stockley
Assistant Director for Governance & Democracy

Has this been discussed by Cabinet Members?

No

Cabinet Portfolio Holder Signature

Email approval received
Councillor Ronan Browne
Portfolio Holder for Council Homes and Landlord Services

Declarations/conflict of interest?

None

19. Date:	25 January 2022
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