

RECORD OF DELEGATED DECISION (OFFICER)
CONTRACT EXEMPTION

1. Decision Reference No.	CEX238	
2. Name/Title of Officer	Alison Wilson – Senior Revenues Officer	
3. Email address of Officer	awilson@melton.gov.uk	
4. Contract Title / Subject Matter:	Contract Exemption - Civil enforcement agent procurement - Extension	
5. Type of Decision:	Public	
6. Key Decision?	No	
7. Contract type:	<input type="checkbox"/>	Goods
	<input checked="" type="checkbox"/>	Services
	<input type="checkbox"/>	Works
8. Decision Taken:	<p>1. Authority to use a Contract Exemption as detailed below;</p> <p>2. Authority to award and enter into any necessary agreements with Marstons Holdings and Bristow & Sutor.</p>	
9. Contract Details		
Service area	Revenues	
Short contract description	Enforcement Agency Services	
Length of Exemption (months)	12mths	
Exemption start date	30.11.22	
Exemption end date	29.11.23	
Total exemption value (£)*	VAT only	

Cumulative value of all previous Exemption requests (if applicable)

VAT only

* 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 £20,000 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"/> New Requirement <input checked="" type="checkbox"/> Change to Existing Requirement <input type="checkbox"/> Replacement to Existing Requirement <input type="checkbox"/> Other
Which rule are you seeking an exemption from?	<input checked="" type="checkbox"/> To advertise <input checked="" type="checkbox"/> To follow a competitive process
Name of Proposed Provider:	
Has the requirement been subject to a previous Exemption?	<input checked="" type="checkbox"/> No <input type="checkbox"/> 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 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 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 checked="" 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		Current contract is in line with other authorities who are part of the collaborative partners
How will value for money be secured?		This will be achieved through undertaking a collaborative procurement

11. Reasons for Decision:

Due to the additional burdens placed on the Revenues services over the past 12-18 months specifically around the numerous Government covid and cost of living support schemes which have had to be managed and delivered by the service there has been insufficient officer time and capacity to tender this contract.

There is an intention to then look at a joint procurement exercise following this extension with the establishment of a joint working group across Leicestershire to look at the renewal of Enforcement Agency Services for 2023 onwards. The extension is consistent with the approach of the other authorities looking at a collaborative tender in order to ensure the most competitive tender can be procured.

The collaboration will help to ensure the council achieved Value for Money and get the best quality service to support effective and efficient debt recovery action.

This tender works in a slightly different manner to most contracts in that the council only pay the VAT amount on the income collected.

12. Authority / Legal Power:

See Legal section below

13. Background Papers attached?

No

14. Alternative options available / rejected:

1. Do nothing – the current contract would expire and therefore no provision would be in place for enforcement action affecting the council's ability to recover income due leading to an increase in write offs and lost income.
2. Procurement a new contract by Nov 2022– as summarised above there is insufficient time and resource to procure a new contract at present.

15. Implications:

<p>Legal</p>	<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 of more of the criteria being fulfilled.</p> <p>[Legal Approval - 19 October 2022]</p>
<p>Finance</p>	<p>It is important the council has in place an enforcement contract as a way of proactively ensuring council debt is chased and income recovered that is due.</p> <p>Budget provision is in place to cover the VAT only fees associated with enforcement recovery action.</p> <p>[Finance Approval - 5 October 2022]</p>
<p>HR</p>	<p>Not applicable</p>
<p>Procurement</p>	<p>Enforcement contract can be a complicated contract to tender and with the aim to establish a collaborative procurement process sufficient time is required to develop the tender specification.</p> <p>A working group has been established to explore the collaborative procurement which each authority involved is supportive of. However, equally due to resource pressures and additional responsibilities placed on revenue services as outlined above each authority has agreed to extend existing contracts.</p> <p>[Procurement Approval - 10 October 2022]</p>

16. Signature of relevant Service Director:

Where justification (2) is being relied upon, the relevant Service Director will need to approve the exemption prior to it being submitted for further approval

Signature Redacted
Dawn Garton
Director for Corporate Services
 24 October 2022

17. Signature of Decision Maker with authority to sign	Signature Redacted David Scott Assistant Director – Resources
18. Consultation with:	Dawn Garton Director for Corporate Services Email notification received Kieran Stockley Assistant Director for Governance & Democracy
19. Date:	9 November 2022

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