

Report of:	Director of Finance Executive Member for Finance and Governance
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Submitted to:	Corporate Affairs and Audit Committee
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Date:	9 June 2022
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Title:	Exemption from Standing Orders Overview 2021/22
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Report for:	Information
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Status:	Public
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Strategic priority:	Quality of service
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Key decision:	No
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Why:	Report is for information only
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Urgent:	No
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Why:	
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Executive summary

This report provides the Corporate Affairs and Audit Committee with an overview of the Standing Order Exemptions that have been received during 2021/22 following on from the Procurement Overview Report 2020/21.

The report covers details about the exemptions and why they have been approved and the type of services they have commissioned. In addition areas of development within the Commissioning & Procurement team in order to ensure that the exemption process is fit for purpose and sustainable.

Purpose

1. To present the Corporate Affairs and Audit Committee with an overview of activity on Exemptions from Standing Orders for 2021/22 and future work plans.

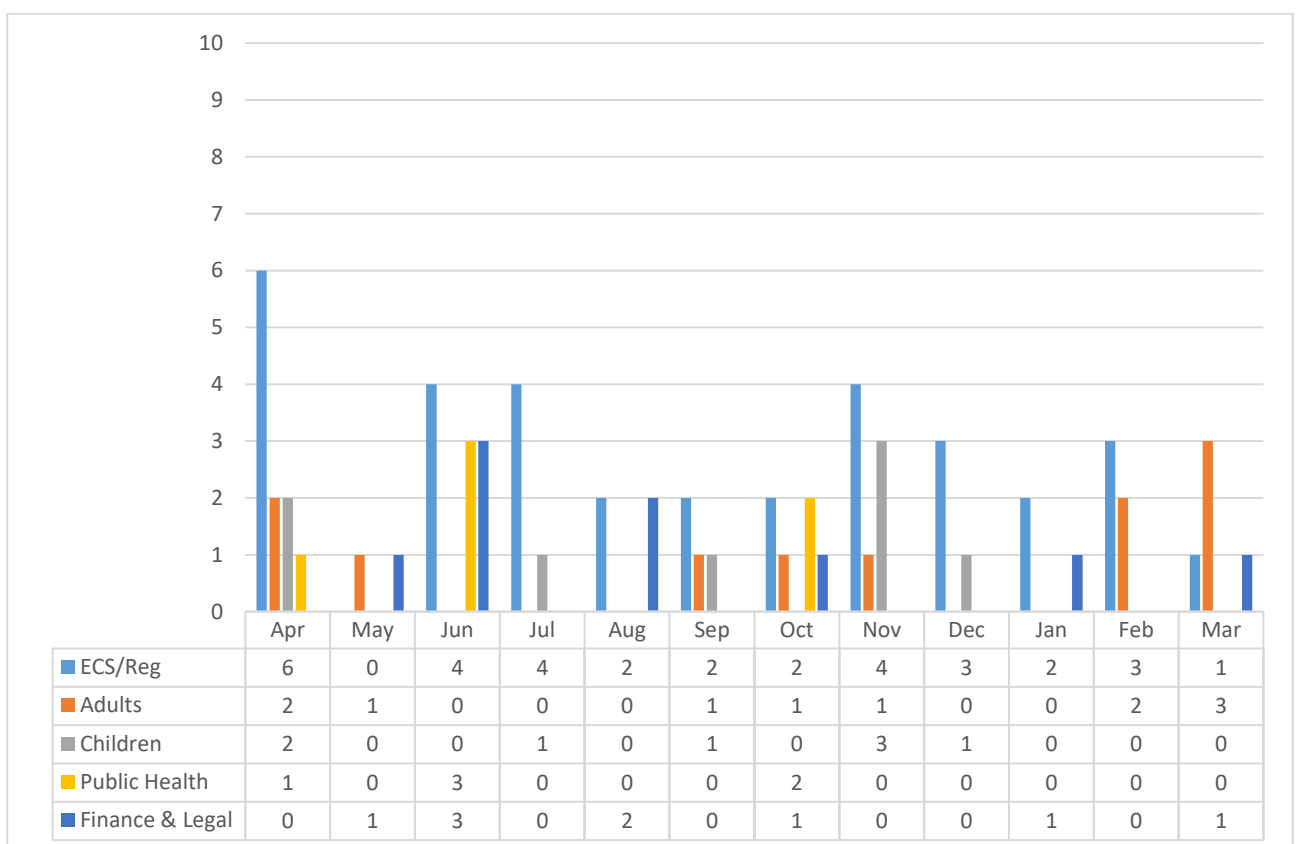
Background and relevant information

2. There are occasions where an Exemption from Standing Orders can be obtained through a fully transparent approval process and is detailed in the Contract Procedures Rules (CPR) which forms part of the Councils Constitution.
3. The reasons for an exemption as detailed in the CPR are:
 1. For works, supplies and services which are patented or of a proprietary or special character and for which it is not possible or desirable to obtain competitive prices
 2. Where for technical, commercial or artistic reasons or because of exclusive rights, it is not reasonable to advertise for tenders
 3. Where the contract is awarded under the terms of a strategic partnership arrangement approved by the Executive
 4. Social care services under the National Health Services and Community Care Act, 1990 or the Children Act, 1989 (contract value must be below £663,540)
 5. Where grant conditions require expenditure to be incurred within a financial year, and notification of a grant is received so late as to prevent compliance with contract standing order 11
 6. Where we are awaiting publication or confirmation of legislative changes that will directly impact future service delivery and the loss of the service would be detrimental to the delivery of the Council services
 7. Purchase is to be made by auction
 8. Where there is no market
4. During 2021/22 there were 71 exemption requests received and of those 67 were approved and 4 were not.
5. The 67 approved is an increase on previous years with 48 in 2020/21 and 60 in 2019/20, however, it is important to note that the significant decrease in 2020/21 figure was due to COVID.

6. The table below shows a summary of the departments that have submitted exemption requests:

Directorate	Number Received	Number Approved	Number Not Approved
Adults	11	11	0
Children's	8	8	0
ECS/Regeneration	36	33	3
Finance & Legal	10	9	1
Public Health	6	6	0

7. The graph below shows the months the requests were approved, as you can see the highest was in April but generally requests are approved throughout the financial year:



8. The 4 requests not approved were from ECS/Reg (3) and Finance (1) and the Commissioning & Procurement Team were able to work with these areas in order to support them and get contracts awarded through formal tendering routes.

9. The table below provides a summary of the reasons for the exemptions:

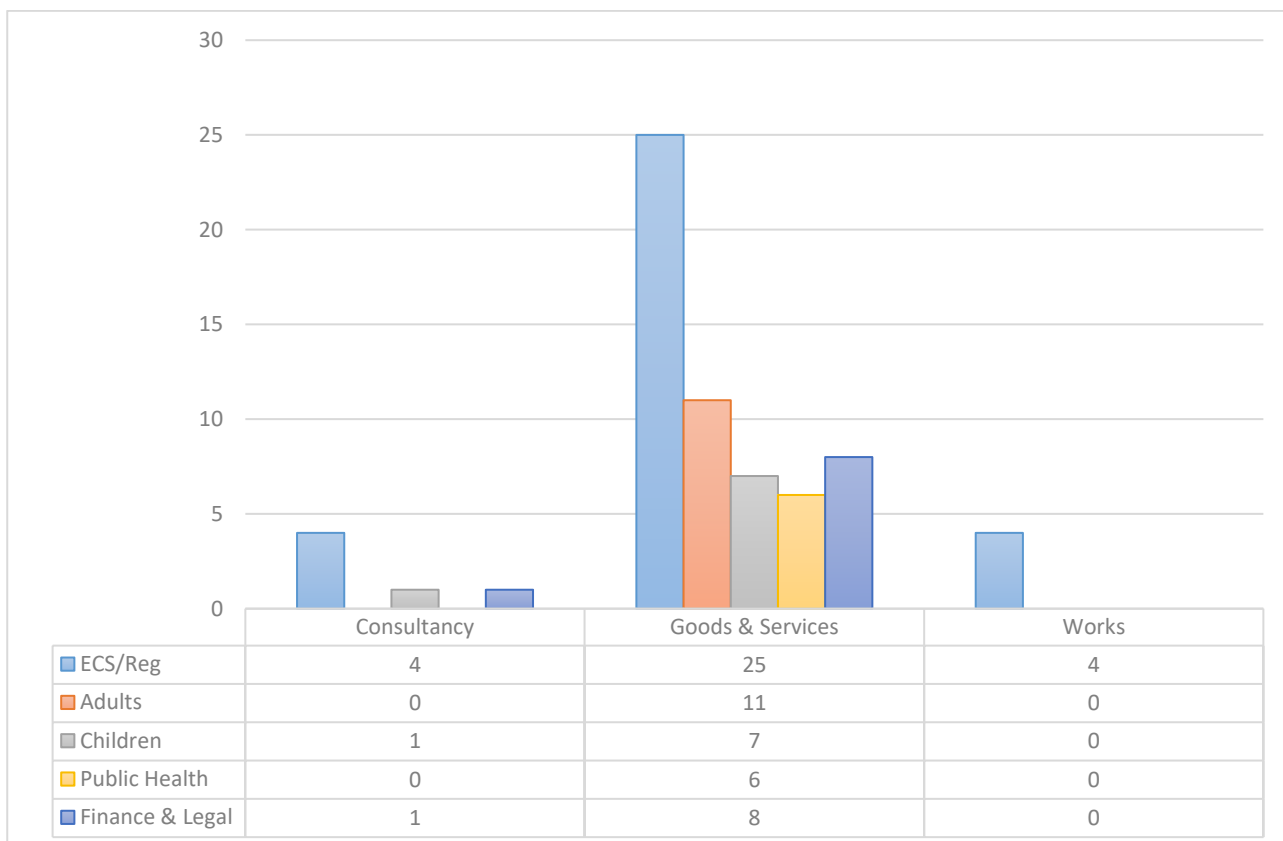
Exemption Reason	ECS/Regeneration	Adults	Children	Public Health	Finance	TOTAL
1	21	3	7	3	4	38
2	19	2	3	2	3	29
3	0	0	0	0	0	0
4	0	5	1	0	1	7
5	3	1	0	3	1	8
6	0	0	0	0	0	0
7	0	0	0	0	0	0
8	2	1	1	1	1	6

**Please note sometimes exemptions can fall under multiple reasons and this is why it will total higher than the number of requests approved.*

10. As seen in the table above the main reasons exemptions are sought are:

- For works, supplies and services which are patented or of a proprietary or special character and for which it is not possible or desirable to obtain competitive prices
- Where for technical, commercial or artistic reasons or because of exclusive rights, it is not reasonable to advertise for tenders

11. The graph below shows the number of exemptions approved based on the high level category of spend and shows the highest use was for the purchase of goods and services:



12. The Commissioning & Procurement team allocate each exemption approved with a unique identifier (e.g. ASC001 – Adult Social Care) and keep a formal record of all exemptions for monitoring purposes.
13. The Commissioning & Procurement team has in place a formal process for reviewing and approving exemptions and following approval the team will also record the exemption on the Council’s contract register and where appropriate publish a formal Contract Award Notice on Contracts Finder service.
14. The Service area is advised and supported where appropriate to put in place a formal contract and undertake any other requirements such as data protection or ICT validations.
15. The total contractual value of the 67 contracts awarded through exemption process was £6m which equates to 11% of the total contractual value awarded during 2021/22 which was £58m.
16. It is important to note that exemptions can only be applied for where the contract value will not exceed the Public Contract Regulations threshold, which is:

Goods & Services / Consultancy	Works	Light Touch
£213,477 (inc of VAT)	£5,336,937 (inc of VAT)	£633,540 (inc of VAT)

17. The Commissioning & Procurement team have been considering ways to improve our approach to procurement in order to support the Director of Finance’s desire to minimise exemption requests and are currently piloting a ‘Best Value Decision’ process to evidence if this will work.
18. There are times when carrying out a full blown procurement may not be effective or able to be done in the given timescale and we have often found that services have done some work, e.g. obtaining quotes or evidencing a lack of market, which whilst not compliant with a full process does show transparency of evidence to support a decision to award.
19. The Procurement Team Leader has developed a template which provides the opportunity for us to evidence all of this and seek a decision to award. This form is validated by the Procurement Team before being formally signed off by the Head of Commissioning & Procurement.
20. It means we can be more responsive and proactive with service areas and make the process, especially for lower value contracts less bureaucratic and more user friendly.
21. The ‘Best Value Decision’ will be fully auditable and traceable which is in line with our governance arrangements.
22. The pilot will be reviewed after 6 months and we will work with Legal and Internal Audit on this and if successful the process will become a formal procurement route and all necessary guidance and policies will be updated.

What decision(s) are being recommended?

That the Corporate Affairs and Audit Committee:

- acknowledge the content of this report.

Rationale for the recommended decision(s)

23. This report is for information only.

Other potential decision(s) and why these have not been recommended

24. This section is not applicable as this report is for information only.

Impact(s) of the recommended decision(s)

Legal

25. There are no impacts as a result of this report.

Strategic priorities and risks

26. There are no impacts as a result of this report.

Human Rights, Equality and Data Protection

27. There are no impacts as a result of this report.

Financial

28. There are no impacts as a result of this report.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline

Appendices

1	
2	
3	

Background papers

Body	Report title	Date

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