

---

## **Audit and Governance Committee**

4 October 2006

Report of the Assistant Director of Resources (Audit and Risk Management)

### **Annual Monitoring Report: Breaches and Waivers of Financial Regulations 2005/06**

#### **Summary**

1. The purpose of this report is to inform Members about unauthorised breaches of the Council's Financial Regulations during the 2005/06 financial year and any waivers of Financial Regulations approved by the S151 Officer during the year. The report also includes a summary of progress made in addressing breaches of Financial Regulations identified and reported in earlier years. The requirement to report on these matters is specified within the Constitution and Financial Regulations.

#### **Background**

2. The Council's Financial Regulations set out the procedures and standards for financial management and control that must be followed by officers and Members. Compliance with the Regulations helps to ensure that:
  - there are robust systems of financial management and control
  - the finances of the Council are safeguarded from unnecessary risk
  - the Council achieves value for money in its procurement of goods and services.
3. As part of its role, Internal Audit is responsible for preparing an annual report to members detailing any known breaches of the Regulations along with any waivers from the Regulations approved by the S151 officer. Breaches are identified through various means including direct notification to the Director of Resources by officers, and routine audit work. In addition, a separate audit review is carried out to identify procurement related breaches. This review compares payments made to suppliers against contract details held by departments. The current report is based upon the Financial Regulations that were in place during 2005/06 (for which the Council tendering threshold was £100k).

## Consultation

4. Details of the findings set out in paragraphs 5 – 15 and in the annexes have been forwarded to chief officers and other relevant officers for comment, prior to inclusion in the report.

## Breaches of Financial Regulations

5. Exhibit 1 below compares the number of breaches of Financial Regulations reported in 2004/05 and 2005/06.

Exhibit 1

Number of breaches of Financial Regulations 2004/05 and 2005/06	2004/05	2005/06	Change	
			No.	%
Total number of breaches reported	34	40	+6	18%
Newly reported breaches	22	13	-9	-41%
No. brought forward from previous year	11	27	+16	+145%

6. The total number of breaches of Financial Regulations reported for 2005/06 is 40 – six higher than for 2004/05. However, this is mainly because of the large number of breaches identified for 2004/05, that were unresolved at the time of the last report, which have been brought forward to this year.
7. Annex 1 lists breaches of Financial Regulations newly identified for 2005/06. There were only 13 new breaches of the Regulations identified for 2005/06, compared to 22 for 2004/05 – a reduction of 9. This is despite an increase in the sample of expenditure reviewed by Internal Audit for 2005/06. This suggests that there has been a general improvement in compliance with the Regulations. Of the 13 newly identified breaches, 9 have already been addressed, are in the process of being addressed, or are not ongoing issues.
8. At the time of the 2004/05 breaches and waivers report there were 27 breaches of Financial Regulations that had not been fully resolved. Progress in addressing these has been reviewed for this year and is detailed in annex 2. Of the 27 breaches, nine have now been satisfactorily resolved, and progress has been made in addressing a further 14. There are four breaches which have not yet been fully resolved, as detailed in paragraphs 9 to 12 below.
9. There has been no formal tendering for the supply of concessionary travel tokens, by City Strategy. The department reports that it had insufficient time to tender for this supply for 2005/06, but that a fully EU compliant procurement exercise will be carried out for any future years purchases.
10. There has been no formal tendering for plant hire within Neighbourhood Services. The department reports that it will carry out a full tendering exercise in 2007 and a contract will be let from January 2008.

11. Highways maintenance work subcontracted by Neighbourhood Services has not yet been tendered. In total, five of the breaches reported for City Strategy and Neighbourhood Services relate to highways. Three of these are for programmed works which are now being addressed through a separate tendering exercise. The remaining two breaches relate to ongoing maintenance, and will not be resolved until the highways procurement project has been concluded. This exercise is still ongoing and it is not yet clear when these breaches will be resolved.
12. Aggregate expenditure on non-recruitment advertising across all Council departments continues to exceed the limits for tendering. There is currently no corporate contract covering this supply. Further analysis of this expenditure is being undertaken by the Corporate Procurement Team to identify what action is required.

### **Waivers**

13. A total of 28 applications for waivers of Financial Regulations were received by the S151 officer in 2005/06. This compares to 20 applications for waivers in 2004/05.
14. Of the applications received, 27 were approved and one was not required. Each application is detailed in annex 3 to this report for Members to note and question the S151 officer on any of the decisions taken by him in respect of these matters under the Council's scheme of delegation.

### **Conclusions**

15. In 2005/06, 13 new breaches of Financial Regulations have been identified compared to 22 in 2004/05. In addition, departments have made good progress in addressing outstanding breaches from previous years with action already being taken to address 23 of the 27 breaches. There has also been an increase in the number of waiver requests to 28 in 2005/06. Taken together, these figures appear to show an increasing awareness of the requirements of Financial Regulations (and EU procurement rules) and the need to comply with these rules. It should also be noted that there are no breaches outstanding where departments have reported that they do not intend to take any action.

### **Options**

16. Not relevant for the purpose of the report.

### **Analysis**

17. Not relevant for the purpose of the report.

### **Corporate Priorities**

18. This report contributes to the overall effectiveness of the Council's governance and assurance arrangements, and to the corporate priority of improving efficiency and reducing waste so as to free up more resources.

## Implications

19. The implications are:
  - **Financial** – there are no financial implications to this report.
  - **Human Resources (HR)** – there are no HR implications to this report.
  - **Equalities** - there are no equalities implications to this report.
  - **Legal** - there are no legal implications to this report.
  - **Crime and Disorder** - there are no crime and disorder implications to this report.
  - **Information Technology (IT)** - there are no IT implications to this report.
  - **Property** - there are no property implications to this report.

## Risk Management

20. There are a number of risks that arise as a result of breaches of Financial Regulations and EU procurement rules, which are detailed in paragraphs 21 to 26 below.
21. The Council may be subject to scrutiny from central government and may have grant funding withdrawn if it is found to have breached EU purchasing regulations.
22. Third parties may claim to have been disadvantaged by unfair tendering processes and could raise legal challenges to the award of contracts. There is a risk of financial loss if compensation is subsequently awarded or if contracts are overturned. In this case there is also a threat to the provision of services and the reputation of the Council.
23. Any damage to the reputation of the Council caused by inappropriate tendering processes may compromise relationships with existing suppliers and make it more difficult to attract new suppliers in the future. Such a situation could hinder the provision of services and may lead to increased costs.
24. There is an increased risk that the Council will not achieve value for money in its procurement of goods and services.
25. Poor tendering procedures increases the risk that fraud or other inappropriate actions may occur.
26. External Audit may challenge the legality of the Council's activities, which in turn may result in the publication of reports in the public interest under section eight of the Audit Commission Act (1998).

## Recommendations

27. Members of the Audit and Governance Committee are asked to:

- note the breaches of Financial Regulations identified or otherwise notified to the S151 officer during 2004/05 (paragraph 7 and annex 1 attached).

### Reason

*To fulfil their role in considering the Council's compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.*

- consider the actions taken to address outstanding breaches of Financial Regulations and express a view about further action necessary on those matters that remain outstanding (paragraphs 8 - 12 and annex 2 attached).

### Reason

*To fulfil their role in considering the Council's compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.*

- note the waivers of Financial Regulations approved by the S151 officer under the Council's scheme of delegation (paragraphs 13 - 14 and annex 3 attached).

### Reason

*To fulfil their role in considering the Council's compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.*

## Contact Details

### Author:

Richard Smith  
Principal Auditor  
Audit and Risk Management  
Telephone: 01904 552936

### Chief Officer Responsible for the report:

Liz Ackroyd  
Assistant Director (Audit and Risk Management)  
Telephone: 01904 551706

Report Approved



Date 14 September 2006

## Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All

For further information please contact the author of the report

## Background Papers:

None

## **Annexes**

Annex 1 – Newly Identified Breaches of Financial Regulations for 2005/06 (Exempt)

Annex 2 – Follow Up of Breaches of Financial Regulations from Prior Years (Exempt)

Annex 3 - Applications for Waivers of Financial Regulations 2005/06 (Exempt)