

Broads Authority

12 May 2023

Agenda item number 17

Annual report on requests to waive Standing Orders relating to contracts in 2022/23

Report by Director of Finance

Purpose

This report details the 2022/23 annual summary of instances where Standing Orders were waived by the Chief Executive.

Broads Plan context

The Peat Project which was subject to a number of waivers, supports the following:

A3 Agree carbon reduction targets for the Broads National Park and promote action to reduce emissions.

B2 Promote best practice water capture and usage across the Broadland Rivers Catchment and reduce point and diffuse pollution into the floodplain and water courses.

B3 Seek biodiversity net gain and nature-based solutions and enhance areas of fen, reed bed, grazing marsh, and wet woodland, to protect peatlands as carbon sinks.

B5 Improve partnership coordination and communication of Broads biodiversity monitoring and research effort.

D1 Protect and enhance local built and cultural features, archaeology, geodiversity and potential hidden heritage, including 'at risk' assets.

F3 Provide and expand schools-based and outreach environmental education opportunities for young people, using the Broads as a learning resource.

Recommended decision

To note the annual instances where Standing Orders were waived.

Contents

1.	Introduction	2
2.	Waivers authorised in 2022/23	2
3.	Risk implications	4

1. Introduction

1.1. The report provides details where the Chief Executive and the Broads Authority authorised a waiver of Standing Orders during 2022/23. Waivers can only be approved by certifying that there is an extreme urgency, only one supplier or in certain other circumstances. It also requires that all waivers authorised under delegated powers must be reported to the Authority on an annual basis.

2. Waivers authorised in 2022/23

2.1. Eighteen separate waivers to Standing Orders were authorised in 2022/23, nine by the Chief Executive and nine by the Board. Some of these related to multiple extensions to the same contracts which have been consolidated into one line set out in Table 1. The costs in the final column are shown exclusive of VAT.

Table 1

Summary of waivers authorised in 2022/23

Ref	Details of Contract	Supplier	Amount (£)
A	Legal Advice	Wilkin Chapman LLP	£22,000
B	Peat Project - Water Vole assessment	Suffolk Wildlife Trust	£1,650 +£3,500 +£40,000 Total £45,150
C	Visit the Broads marketing	Broads Tourism Ltd	£6,300
D	Plastic Decking for How Hill boardwalk	Hahn Plastics via Kacey Recycled Products	£23,075
E	Payroll extension	Norfolk County Council	£7,500
F	Scaffolding at Muttons Mill	DJ Oakley Scaffolding Ltd	£3,510 + £1,770 Total £5,280
G	Peat Project – Environmental surveys	Exo Environmental	£16,033 + £52,000 + £25,900 Total £93,933
H	Provision of Monitoring Officer and Deputy	Wilkin Chapman LLP	Contracted on hourly rate
I	Capital Equipment	Truxor UK Ltd, Watling JCB Ltd and Aquatic Control Engineering Ltd	£737,500

Ref	Details of Contract	Supplier	Amount (£)
J	Plans for revised Yare House occupation	Hudsons architects	£15,000
K	Access for All funding – Horsey Mill footpath improvements	NR11 Groundworks	£30,244
L	Peat Project – update to reports based on revised surveys	Cranfield University	£2,800

2.2. Further details of the individual contracts and the reasons for waiving Standing Orders are set out below.

- A. Urgency:** This was for an extension to the external professional advice following a complaint regarding a planning issue. The appointment was recommended by the Authority’s then Monitoring Officer.
- B. Contract extension to original contract:** The supplier had originally won the tender to deliver the Peat project water vole surveys as part of the Discovery stage grant. The innovative nature of the grant and additional funds being made available has meant the original scope has been modified. The first two amounts were within the Chief Executive’s delegated powers to approve contracts extensions that are under 10% of the original value, the third exceeded this and was approved by the Authority 17/03/23 (agenda item 11).
- C. Partnership work funded 50%:** The standing orders allow for an exemption where the work is either 50% or more funded by another organisation where quotes are not necessarily required. The marketing work supported the previous Broads Plan strategic action 6.3 “Maintain, develop and promote a coordinated and year-round programme of activities”.
- D. Sole supplier:** Only one supplier was able to provide the exact colour, type and texture of the plastic boardwalk as set out in the planning conditions.
- E. Contract extension to original contract:** This was agreed by the Authority on 23/09/22 (agenda item 10) to further extend the contract until 31 March 2024. The contract has been in place since 2014 and has provided value for money. This contract will be retendered for services post 1 April 2024.
- F. Contract extension to original contract:** This was for the extension to the scaffolding at Muttons Mill as part of the Water, Mills and Marshes project due to the loss of contractor staff and delays in obtaining parts from the millwright. The extension exceeded the 10% within the Chief Executive’s delegated powers.

The first extension was approved 23/09/22 (agenda item 10) with the second on 17/03/23 (agenda item 10).

- G. Contract extension to original contract:** The supplier had originally won the tender to deliver the Peat project environmental surveys as part of the Discovery stage grant. The innovative nature of the grant and additional funds being made available has meant the original scope has been modified. The first amounts was within the Chief Executive's delegated powers to approve contracts extensions that are under 10% of the original value, the second and third exceeded this and was approved by the Authority 20/01/23 (agenda item 12) and 17/03/23 (agenda item 11).
- H. Urgency:** Following the previous Monitoring Officer (MO) resignation due to other work demands and the length of notice provided, standing orders were waived due to urgency. The Authority must appoint a MO under section 5 of the Local Government and Housing Act 1989. Given previous difficulties in recruiting MO's and the previous MO close working with Wilkin Chapman, the Authority approved their appointment on 02/12/22 (agenda item 17).
- I. Urgency:** Following the capital money from DEFRA and the requirement to purchase all the items before the 31/03/23, the Authority agreed to the waivers on 02/12/22 (agenda item 10). Items purchased and delivered include the Truxor, two JCB excavators and a weed harvester.
- J. Urgency:** The downsizing of Yare House is a priority project for 2023 which has meant that there has not been the time to look for market alternatives. The work is split into stages, with stage two commencing in 2023/24.
- K. Competitive quotes not received:** Following the receipt of the Access for All grant, six local contractors were approached and only two were able to complete the works before 31/03/23 deadline set by DEFRA. The invitation to quote were originally requested based on a project costs of £20,000 to £25,000. This meant a full tender process was not run, but once quotes were received there was no the time to do so.
- L. Contract extension to original contract:** The supplier had originally been appointed to deliver the Peat project soil carbon assessment as part of the Discovery stage grant. The innovative nature of the grant and additional funds being made available has meant the original scope has been modified. The extension exceeded the 10% within the Chief Executive's delegated powers and was approved by the Authority 20/01/23 (agenda item 12).

3. Risk implications

- 3.1. Within the corporate risk register, reputational damage to the Authority (such as that caused by comments or actions by members or officers) is identified as a risk and the directorate risk register identifies failure of procurement practices, which could lead to

legal challenge. All waivers require careful consideration to ensure that contracts are not awarded to give unfair benefit to suppliers, thus reducing the impact on the Authority's reputation and the potential for challenge.

4. Conclusion

- 4.1. Nine waivers were approved by the Chief Executive (CEO) and nine by the Board in 2022/23, compared to the twelve by the CEO and one by the Board in 2021/22. Although this represents an increase compared to the previous year, seven waivers related to the same project. All approved waivers were considered to be justified on the grounds of achieving the best outcome for the Authority at the best possible price.
- 4.2. A number of the waivers considered this year related to where a contract extension was more than 10% of the original value which for relatively low value contracts still require Board approval. As a result a review of the Standing Orders Relating to Contracts is currently under review and will be brought to Audit and Risk Committee later on this year for consideration.

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Background papers: Standing Orders Relating to Contracts

[Broads Plan](#) strategic objectives: A3, B2, B3, B5, D1 and F3