



### Report Cover Sheet

Report to:	Board of Directors	
Date of the Meeting:	25 September 2019	
Agenda Item:	P1/191/19	
Title:	Tender Waiver Register	
Report prepared by:	Angela Wendzicha, Associate Director of Corporate Governance	
Executive Lead:	James Thomson, Director of Finance	
Status of the Report:	Public	Private
	X	

Paper previously considered by:	Audit Committee
Date & Decision:	11 September 2019: The Audit Committee welcomed the report and recommended Trust Board has sight of the Current Register.

Purpose of the Paper/Key Points for Discussion:	<p>In accordance with Section 17.4.2 of the current Standing Financial Instructions the Audit Committee is required to receive reports when the Trust has sought to waive the formal tendering process.</p> <p>The Audit Committee received the Registers from the periods 01 April 2018 – 31 March 2019 and 01 April 2019 – August 2019 following which it was agreed to provide the current Register to the Trust Board for information.</p>
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Action Required:	Discuss	X
	Approve	
	For Information/Noting	X

Next steps required	The Tender Waiver Register is now a standing agenda item of the Audit Committee and will be presented to the Trust Board for information.
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*The paper links to the following strategic priorities (please tick)*

Deliver <b>outstanding care locally</b>		Collaborative system <b>leadership</b> to <b>deliver better patient care</b>	
Retain and develop <b>outstanding staff</b>		Be <b>enterprising</b>	
Invest in <b>research &amp; innovation</b> to deliver <b>excellent patient care</b> in the future		Maintain <b>excellent</b> quality, operational and financial <b>performance</b>	√

The paper relates to the following Board Assurance Framework (BAF) Risks

BAF Risk	Please Tick
1. If we do not optimise quality outcomes we will not be able to provide outstanding care	
2. If we do not prioritise the costs of the delivering the Transforming Cancer Care Programme we will not be able to maintain our long-term financial strength and make appropriate strategic investments.	√
3. If we do not have the right infrastructure (estate, communication & engagement, information and technology) we will be unable to deliver care close to home.	
4. If we do not have the right innovative workforce solutions including education and development, we will not have the right skills, in the right place, at the right time to deliver the outstanding care.	
5. If we do not have an organisational culture that promotes positive staff engagement and excellent health and well-being we will not be able to retain and attract the right workforce.	
6. If we fail to implement and optimise digital technology we will not deliver optimal patient outcomes and operational effectiveness.	
7. If we fail to position the organisation as a credible research partner we will limit patient access to clinical trials and affect our reputation as a specialist centre delivering excellent patient care in the future.	
8. If we do not retain system-side leadership, for example, SRO for Cancer Alliance and influence the National Cancer Policy, we will not have the right influence on the strategic direction to deliver outstanding cancer services for the population of Cheshire & Merseyside.	
9. If we do not support and invest in entrepreneurial ideas and adapt to changes in national priorities and market conditions we will stifle innovative cancer services for the future.	
10. If we do not continually support, lead and prioritise improved quality, operational and financial performance, we will not provide safe, efficient and effective cancer services.	√

### Equality & Diversity Impact Assessment

Equality & Diversity Impact Assessment		
Are there concerns that the policy/service could have an adverse impact on:	YES	NO
Age		X
Disability		X
Gender		X
Race		X
Sexual Orientation		X
Gender Reassignment		X
Religion/Belief		X
Pregnancy and Maternity		X

If YES to one or more of the above please add further detail and identify if a full impact assessment is required.

## Tender Waiver Register 2019/2020

In accordance with Section 17.4.2 of the Trust's Standing Financial Instructions, formal tendering procedures may be waived in the following circumstances:

17.4.2 Formal tendering procedures are not required where:

- (a) the estimated expenditure or income does not, or is not reasonably expected to, exceed the limit set in the Scheme of Reservation and Delegation, (this figure to be reviewed annually); or,
- (b) the supply is proposed under special arrangements negotiated by the Department of Health in which event the said special arrangements must be complied with; or
- (c) regarding disposals as set out in Standing Financial Instruction 'Disposals and Condemnations'.

Formal tendering procedures **may be waived** in the following circumstances:

- (d) in very exceptional circumstances where the Chief Executive decides that formal tendering procedures would not be practicable or the estimated expenditure or income would not warrant formal tendering procedures, and the circumstances are detailed in an appropriate Trust record;
- (e) where the requirement is covered by an existing contract;
- (f) where PASA agreements are in place and have been approved by the Board of Directors;
- (g) where a consortium arrangement is in place and a lead organisation has been appointed to carry out tendering activity on behalf of the consortium members;
- (h) where the timescale genuinely precludes competitive tendering - failure to plan the work properly would not be regarded as a justification for a single tender;
- (i) where specialist expertise is required and is available from only one source;

- (j) when the task is essential to complete the project, and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
- (k) there is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;
- (l) for the provision of legal advice and services providing that any legal firm or partnership commissioned by the Trust is regulated by the Law Society for England and Wales for the conduct of their business (or by the Bar Council for England and Wales in relation to the obtaining of Counsel's opinion) and are generally recognised as having sufficient expertise in the area of work for which they are commissioned. (The Finance Director will ensure that any fees paid are reasonable and within commonly accepted rates for the costing of such work).
- (m) where allowed and provided for in the NHS Trust Capital Accounting Manual.

The following Register illustrates the details of tender waivers for 2019/2020.

## Tender Waiver Register 2019/2020

No.	DATE	DEPARTMENT	REQUESTER	DETAILS OF THE REQUEST	INFORMATION IN SUPPORT	SUPPLIER	TOTAL VALUE	RATIONALE FOR WAIVER
103	11/04/2019	PMO	B Schofield	Data Modelling Advisory Support	MS Consulting developed a model for TCC which has been refreshed for 2019. Specialist knowledge and skill needs to be retained	MS Consulting	28,860.26	SFI Section 17.4.2 (k) where there is clear benefit to be gained from maintaining continuity
104	10/04/2019	Imaging	Susan Wright	Maintenance contract for X-ray room	Maintenance needs to be carried out by the supplier who are familiar with the equipment	Carestream Health UK Ltd	22,653.00	SFI Section 17.4.2(i) where specialist expertise is required and is available from only one source
105	16/04/2019	Physics	Coral Green	SNC Perfraction - additional licence	Additional licence required	NHS Supply Chain	168,300.00	SFI Section 17.4.2 (K) where there is clear benefit to be gained from maintaining continuity
106	26/07/2019	Radiation Services	Carl Rowbottham	Aria server hardware	Server hardware and licenses required for Aria 15 software upgrade.	Varian Medical Systems	433,928.86	SFI Section 17.4.2 (K) where there is clear benefit to be gained from maintaining continuity
107	26/07/2019	Radiation Services	Kieran Woods	Purchase of two Varian Linacs with additional features to provide operational flexibility for patient safety.	Business case attached to request for purchase of 2 Varian Linacs	Varian Medical Systems	3,325,370.58	SFI Section 17.4.2 (K) where there is clear benefit to be gained from maintaining continuity
108	24/07/2019	Cancer Alliance	L Devereux	Urology Cancer Service Review	Ongoing arrangements with the company	Attain	49,435	SFI Section 17.4.2 (K) where there is clear benefit to be gained from maintaining continuity
109	01/08/2019	Radiation Services	S Temple	3 years part fund' for Varian Contract	Part of ongoing service contract with Varian and parts are only available from Varian. Purchase through Varian also required to maintain associated service contract and CE marking.	Varian Medical Systems	78,750.00	SFI Section 17.4.2 (i) Where specialist expertise is required and is available from only one source.
110	01/09/2019	Radiation Services	S R Elmer	Maintenance Agreement - 2018-135235	This contract can only be provided by Varian Medical Systems. They are the manufacturer of the Radiotherapy equipment and only provider.	Varian Medical Systems	59,220	SFI Section 17.4.2 (i) Where specialist expertise is required and is available from only one source.
111	02/09/2019	Radiation Services	S R Elmer	Maintenance Agreement - 2016-67392-5	This contract can only be provided by Varian Medical Systems. They are the manufacturer of the Radiotherapy equipment and only provider.	Varian Medical Systems	953,155.20	SFI Section 17.4.2 (i) Where specialist expertise is required and is available from only one source.
112	13/08/2019	Workforce & OD	Jenny Grant	Allocate: Health Roster	The Trust has in place a contract for allocate health roster. Following approval at Finance Committee and TEG to expand the use of the health roster products and services, the Trust will purchase additional modules. Waiver will support the alignment of contracts.	Allocate	300,104	SFI Section 17.4.2 (K) where there is clear benefit to be gained from maintaining continuity