

Internal Audit
Executive Summary

**Food and Music Festival
Process Review**

Torbay Council

May 2023

Official



Support, Assurance & Innovation

Devon Audit Partnership

Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay, Devon, Torridge, Mid-Devon, South Hams & West Devon, and North Devon councils and Devon & Somerset Fire & Rescue Service authority and we aim to be recognised as a high-quality public-sector service provider.

We work with our partners by providing professional internal audit and assurance services that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards (PSIAS) along with other best practice and professional standards.

The Partnership is committed to providing high quality, professional customer services to all; if you have any comments or suggestions on our service, processes or standards, the Head of Partnership would be pleased to receive them at tony.d.rose@devon.gov.uk.

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1 Introduction and Background

Two tender processes were undertaken regarding the provision of a Food and Music Festival in Torbay. The tender processes were both unsuccessful, resulting in a waiver process within which the contract was awarded to Case Live Ltd on the understanding that it was scaled back from their original tender. We understand from Procurement that Case Live Limited provided details of Case Entertainment Group as their parent company within the Selection Questionnaire.

The contract was awarded through the Council's waiver process and is included in the contracts register. The contract value is stated as £120,000, with an annual value of £40,000, and a contract period of 13/01/2023 to 30/10/2025.

The first event was due to take place late May bank holiday 2023, however Torbay Council received notification from the supplier on 26/04/2023 that they were cancelling the event.

2 Inherent Limitations

Matters within this report are based on our examination of information provided by Officers responsible for the processes reviewed. We have been unable to independently source additional email evidence due to system functionality.

In addition, our work has been limited by the information that is available to Internal Audit.

3 Executive Summary

Overall, a framework was in place in relation to the Procurement process, supported by financial regulations, procurement regulations and contract standing orders. It is evident that the Events Service area engaged Procurement at various points throughout the process. The top-level 'steps' in the Procurement processes were largely followed, being two tender exercises undertaken and evaluated, albeit that the bids submitted resulted in both exercises being unsuccessful following the evaluation processes. In this instance, the Council remained keen to provide this event and sought further Procurement advice. In line with Procurement processes, the Council's Waiver process was engaged, whereby contracts can be directly awarded.

Although the steps themselves were as expected i.e., two failed tender processes then leading to the formal waiver process, we noted areas where issues were identified with opportunities for the control framework to be strengthened.

The waiver document followed standard processes, being signed off by senior managers, but we consider that it contained some unsupported statements and some information that may have been open to misinterpretation, which could have therefore impacted upon the ultimate decision. We recommend that the waiver process should be strengthened to ensure it is at least as robust and detailed as the tender process, with care being taken to ensure the supporting narrative is clear; there is evidence supporting statements made in the waiver; and there is clarity in relation to responsibilities for contract award and approval.

The financial check process was not repeated at waiver stage, the content detail was not actively challenged, and was not undertaken on all companies related to the supplier. A financial check was undertaken on Case Live Ltd. No financial check was undertaken on Case Entertainment Ltd as the parent company. Although due diligence is included in the procurement process for supplier evaluation and selection, there is opportunity to strengthen this to consider company history in greater depth and any associated risks they may pose to the contract. Similarly, financial due diligence is also included in the Procurement process, and these could also be strengthened by ensuring all company information is consistently recorded throughout; financial checks are undertaken on all related companies of the supplier; financial checks are undertaken and shared with relevant parties at all procurement stages up to award of contract; and as standard practice various sources are utilised to support the financial due diligence.

There were some aspects of the contract where we were unable to confirm whether the supplier had provided all of the agreed contractual requirements. The contract did however include clauses related to financial recourse. As standard, contracts include generic clauses to address contract failure and contract monitoring requirements. In addition, where applicable, contracts incorporate specific clauses to support the wide-ranging nature of contracts, and these could be strengthened by considering all stakeholders. Contract monitoring arrangements could be strengthened by exercising these clauses to ensure contractual obligations are met throughout the contract period.

The procurement processes continue to be developed because of the pending changes to national procurement regulations. This then provides an opportunity to incorporate lessons learnt from this procurement process.

4 Scope and Objectives

To review the processes and supporting documentation associated with the tender, waiver, and award of contract, as provided by Council Officers.

5 Lesson Learnt

Separately very detailed recommendations have been given to the s.151 Officer which focus upon the process stages enacted. As an overarching lesson learnt from this review, going forward there should be active review throughout the procurement processes of all information provided to clearly evidence and support statements and decisions, whilst alongside this the waiver process should be strengthened to ensure that it is as robust as the Council's tender process and the company history of related companies should be documented and assessed.

6 Acknowledgements

We would like to express our thanks and appreciation to all those who provided support and assistance during this review.

Tony Rose
Head of Partnership