

Report of: Scott Higgins - Food & Health Team Manager

Report to: Chief Officer Environmental Action

Date: 13th October 2017

Subject: Request to Approve Commencement of Procurement Exercise for the Provision of Official Food Control Interventions by External Contract

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

Leeds City Council currently meets its statutory obligations to deliver Official Food Control interventions by employing an external contractor to deliver part of this function. The existing contract expires on the 31st March 2018.

A new full joint procurement and evaluation exercise is to be undertaken in collaboration with Bradford MDC and Wakefield MDC.

In accordance with Contract Procedure Rules Chief Officer approval is sought to commence procurement exercise into the provision of Official Food Control intervention by an external contractor for two years from 1st April 2018 to 31st March 2020, with the option of extending for a further period of 12 months (1st April 2020 to 31st March 2021).

Recommendations

The Chief Officer Environmental Action is recommended to note the content of this report and give approval to commencing the procurement process for provision of Official Food Control interventions via an external contract.

1. Purpose of this report

- 1.1. The purpose of this report is seek approval from the Chief Officer Environmental Action to commence the procurement exercise in collaboration with Wakefield MDC and Bradford MDC to deliver Official Food Controls by the use of an external contract.
- 1.2. Duration of the contract: 2 years (1st April 2018 to 31st March 2020) with option to extend 12 months (1st April 2020 to 31st March 2021).

2. Background information

- 2.1. Under the provision of the Food Safety Act 1990 and associated European Legislation, local authorities as Food Authorities have a statutory duty to carry out Official Controls, other food related regulatory duties, and carry out enforcement action at food businesses in their area.
- 2.2. The Food Standards Act 1999 designates the Food standards Agency (FSA) as the Competent Authority responsible for managing Official Controls. The FSA are also responsible for the setting of service standards for Food Authorities when delivering Official Controls via the Food Law Code of Practice, Practice Guidance, and Local Authority Framework document. A function of the FSA is to monitor the performance Food Authorities in delivering Official Controls (including a food hygiene intervention programme) and enforcement actions.
- 2.3. The findings of a 2006 FSA audit of Leeds City Councils Food & Health Service included insufficient staffing resource to deliver Official Controls and deliver a food intervention programme compliant with the requirements of the Food Law Code of Practice. As part of an action plan to improve service delivery and deliver the intervention programme, procurement of food hygiene interventions via an external contractor was carried out. This was found to be practical and cost effective in delivering specific aspects of the food intervention programme to meet the Council's statutory duties.
- 2.4. In 2013 a joint procurement exercise was carried out with Wakefield MDC. This resulted in a contract being awarded to Osbourne Richardson from 1st November 2013 to 31st March 2016 with the option to extend for a period of 12 months (such an option not to be taken up more than twice). This contract was subsequently extended twice in April 2016 and April 2017. The current contract therefore ends 31st March 2018.
- 2.5. Both Wakefield MDC and Bradford MDC have indicated that they wish to participate with Leeds City Council in a joint procurement of an external contract from April 2018.
- 2.6. The use of an external provider to deliver specific aspects of the food intervention programme has been found to be a cost effective method for the Council to meet its statutory obligations. External contractors carrying out specific routine interventions allows internal staff to be utilised in interventions at high-risk premises & processes, approved premises &

manufacturers, imported & exported food, carry out enforcement action, respond to more complex, high-risk & reactive work with an increased potential impact of public health, such as food poisoning outbreaks & major food incidents.

- 2.7. External contractors carrying out specific routine interventions allows the internal staff to be utilised in interventions at high-risk premises & processes, approved premises & manufacturers, imported & exported food, take enforcement action, target enforcement as repeatedly non-compliant businesses and respond to more complex and reactive work with a potential greater risk and impact of public health such a food poisoning outbreaks and major food incidents.
- 2.8. It also allows internal staff to participate in delivering Council's priorities and outcomes identified in the Best Council Plan, issues within priority neighbourhoods & Wards including specific targeted projects at food premises, joint projects & public health initiatives with partners.
- 2.9. Development is currently on-going for the imminent implementation of a chargeable advice service for food businesses. The use of external contractors to deliver routine food intervention allows internal resources and staff to be used to support this.
- 2.10. The FSA, as part of their 'Regulating our Future' programme and Brexit preparations, are currently reviewing and consulting on changes to the existing regulatory delivery model for the food industry. The aim is to create a modern, risk-based, proportionate, robust and resilient system. Although the final details, specific requirements & guidance for Food Authorities has not been published, the FSA have a target date of 2020 for implementation. The current system delivered by Food Authorities will therefore be subject to change in the next two to three years. The use of external contractors to deliver specific parts of the intervention programme will enable Service to prepare, plan and be ready to implement these future changes.
- 2.11. With these proposed changes in mind, it is proposed that the procurement exercise would be for a contract of two years with the option to extend for a period of 12 months. This will allow the local authority to deliver its statutory obligations for 2018-19 and 2019-2020, with optional flexibility of another 12 months should 'Regulating our Future' be subject to delay until 2021.
- 2.12. Under the FSA Food Law Code of Practice & Local Authority Framework Agreement Food Authorities must implement & maintain a risk based intervention programme at food premises. This forms part of the regulatory system to ensure food is safe to eat. Following an inspection, premises are risk rated based on the findings to determine a next visit date, risk and priority. Each premises is rated A to E, with A being highest risk and E being lowest. This information is used to produce a risk based intervention programme each financial year (April to March) to determine premises to be visited that year.

- 2.13. The exact number of interventions required under any future contract will depend of service priorities, annual service plans and the intervention programme. Approximately 1500 interventions in Leeds, 300 in Bradford and 400 in Wakefield rated B to E (including high risk unrated premises) are anticipated to be included in the contract. Additionally during the period of the contract there may also be a requirement to undertake other intervention work which will be included in the tender documentation.
- 2.14. Within West Yorkshire there are well established existing partnerships and collaboration between the five authorities in relation food safety and hygiene. Leeds City Council and Wakefield MDC have worked collaboratively in the joint procurement process of the existing contract which is to end.
- 2.15. Knowledge and long-term experience of both the procurement process and contract management since 2006 has highlighted areas for improvement, efficiencies and good practice that will be implemented within the new contract specification.
- 2.16. The benefits of the joint procurement and contract include improving and maintaining consistency and service to residents and businesses across all the authorities. It also gives the opportunity to secure savings through a shared contract.

3. Main Issues

- 3.1. The existing joint Leeds and Wakefield contract expires on 31st March 2018. Approval is sought to commence the procurement exercise into the provision of Official Control interventions by an external contractor.
- 3.2. All three Councils are ready to start procurement exercise for a new joint contract to deliver Official Controls within their respective authorities' areas once approval has been confirmed.
- 3.3. The Food Standards Agency as part of 'Regulating our Future' are currently reviewing & consulting changes to the food safety regulatory delivery model with a target implementation date of 2020.

4. Corporate Considerations

4.1. Consultation & Engagement

- 4.1.1. No formal consultation required.

4.2. Equality and Diversity/Cohesion and Integration

- 4.2.1. No specific issues relating to the procurement of the contract.

4.3. Council Policies and Best Council Plan

- 4.3.1. Maintenance of an effective food intervention programme facilitated by the contract fully supports the Council's policies on public protection and priorities on Health & Wellbeing and reducing health inequalities.

4.4. Resources and Value For Money

- 4.4.1. The current contract specification includes added value for money following improvements made during the previous contract procurement exercises. This will again be included in the future contract specification and includes audit reporting, contract management, investigation of food complaints, assistance in the development of internal employees, involvement in delivering campaign information and project work during visits, and better consistency across West Yorkshire through common documentation.
- 4.4.2. The resources for the contract for Leeds City Council have been estimated and budgeted for the region of £68k per annum.
- 4.4.3. The use of external contractors has been found to be a successful and cost effective way of delivering the Council's statutory obligations in relation to food hygiene interventions. Should the local authority have to employ officers to carry out the projected intervention work it is estimated that three full time equivalents would be required. It should be noted that this estimate is for interventions only and not does include any regulatory enforcement work.
- 4.4.4. Since awarding the original contract in 2013 several other companies are now on the market and regularly advertise to deliver local authority food contract work in Environmental Health News. Therefore a market sounding exercise will be carried out as part of the procurement exercise to test this market interest.

4.5. Legal Implications, Access to Information and Call-In

- 4.5.1. The joint procurement exercise will be undertaken in accordance with the Council's Contract Procedure Rules. Assistance and support is being given by colleagues within Leeds City Council's Procurement Unit. Wakefield MDC and Bradford MDC will seek the necessary approval within their authorities in accordance with their own council's governance rules.
- 4.5.2. Due to the potential value of the contract the procurement will potentially be required to be advertised within the EU under the open procedure. The procurement will not be subject to call-in under the Council's constitution.

4.6. Risk Management

- 4.6.1. Leeds City Council, Wakefield MDC and Bradford MDC would be unable to discharge their statutory duties effectively under national and EU food safety legislation.
- 4.6.2. If the request to approve commencing the approval exercise is not given the council will not meet requirements to provide official controls and meet its obligations to complete a food intervention programme.

This may lead to audit by the Competent Authority, the Food Standards Agency.

- 4.6.3. As the Competent Authority overseeing delivery of Official Controls, failure by the Council to meet the FSA's Local Authority Framework Agreement and Code of Practice interventions requirements would be referred by them to the FSA Board. The Board has the power to institute the Service to the full standards on the Council's behalf and fully recharge the cost to the local authority including disbursement and on-costs.

5. Conclusions

- 5.1. A joint procurement exercise is to be carried out in collaboration with Wakefield MDC and Bradford MDC to deliver Official Food Controls by the use of an external contract.
- 5.2. The procurement exercise will comply with the Council's Contract Procedure Rules.
- 5.3. The duration of the contract will be two years (1st April 2018 to 31st March 2020) with the option to extend by 12 months (1st April 2020 to 31st March 2021). This will allow the local authority meet its statutory obligations to deliver Official Food Controls and be flexible to meet future changes under the FSA 'Regulating Our Future' programme.

6. Recommendations

- 6.1. The Chief Officer Environmental Action is recommended to note the content of this report and give approval to commencing the procurement process for provision of Official Food Control interventions via an external contract.

7. Appendices

- 7.1. None

8. Background Documents

- 8.1. None