

**Report of: Scott Higgins - Food and Health Team Manager**

**Report to: Chief Officer Elections and Regulatory**

**Date: 16<sup>th</sup> March 2020**

**Subject: Request to extend award of contract for the provision of Official Food Control Interventions**

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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Appendix 1: Delegated Decision Notice 2018		
Appendix 2: Current and Proposed Rates for Official Food Control Interventions		

### Summary of main issues

Leeds City Council supports delivery of its statutory obligations to carry out Official Food Control interventions at food premises in Leeds through the use of an external contractor. The existing contract period expires on the 31<sup>st</sup> March 2020.

In 2018 a joint procurement exercise was undertaken in collaboration with Bradford MDC and Wakefield MDC. The current contract awarded to Osborne Richardson run from 11<sup>th</sup> May 2018 to 31<sup>st</sup> March 2020, with the option to extend for a further 12 months (1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021) (see Appendix 1: Delegated Decision Notification 2018).

Following a review of the current contract as part of the extension process, discussions were held between participating local authorities and contract provider. The contractor has agreed to the contract extension subject to implementation of a revised pricing structure to attract and retain fully qualified and competent food inspectors to deliver the contract requirements.

Chief Officer Approval is now sought for award of the extension of the contract period for 12 months (1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021).

## **Recommendations**

The Chief Officer Elections and Regulatory is recommended to note the content of this report and approve the recommendation to award the extension of the contract for the provision of Official Food Control Interventions to Osborne Richardson for a period of 12 months (1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021).

### **1. Purpose of this report**

- 1.1. To brief the Chief Officer Elections and Regulatory on the delivery of the current Official Food Controls contract.
- 1.2. To seek approval from the Chief Officer Elections and Regulatory to award the extension of the contract to Osborne Richardson for 12 months (1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021).

### **2. Background information**

- 2.1. The Food Safety Act 1990 and associated legislation place a duty on local authorities as Food Authorities to carry out Official Controls and other related regulatory duties 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 of Food Authorities in delivering Official Controls, including a food hygiene intervention programme.
- 2.3. A 2006 FSA audit of Leeds City Council's Food and Health function identified insufficient staffing resources to deliver Official Controls and delivery of a food intervention programme compliant with the requirements of the Food Law Code of Practice. As part of a subsequent FSA agreed action plan to improve service delivery, and deliver the intervention programme, a procurement exercise was carried out to deliver food hygiene interventions by an external contractor. This was found to be practical and cost effective in delivering specific aspects of the food intervention programme to support the Food and Health Team and assist Council in meeting its 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 1<sup>st</sup> November 2013 to 31<sup>st</sup> 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, ending 31<sup>st</sup> March 2018.
- 2.5. In 2018 a further joint procurement exercise was carried out with Wakefield MDC and Bradford MDC with a contract being awarded to Osbourne

Richardson from 11<sup>th</sup> May 2018 to 31<sup>st</sup> March 2020, with the option to extend for 12 months (1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021).

- 2.6. The current contract period will end 31<sup>st</sup> March 2020. Both Wakefield MDC and Bradford MDC have indicated that along with Leeds City Council, they wish to extend the contract from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021.
- 2.7. The use of an external provider to deliver specific aspects of the food intervention programme has been found to be a cost effective method to support the Council in meeting its statutory obligations. External contractors carrying out specific routine interventions allows internal staff to be utilised in interventions at high-risk premises and processes, approved premises and manufacturers, imported and exported food, carry out enforcement action, deal with complex high-risk and reactive work where there is an increased risk to public health, including food poisoning outbreaks and major food incidents.
- 2.8. It also allows internal staff to participate in delivering the Council's priorities and outcomes identified in the Best Council Plan, issues within priority neighbourhoods and Wards including specific targeted projects at food premises, joint projects, and public health initiatives with partners.
- 2.9. Under the FSA Food Law Code of Practice and Local Authority Framework Agreement, Food Authorities must implement and maintain a risk based intervention programme of 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 (1<sup>st</sup> April to 31<sup>st</sup> March) to determine premises to be visited that year. Newly registered food premises that have yet to be inspected are classed as unrated. They are also included in the inspection programme as they are required to be inspected before being given a risk rating.
- 2.10. The exact number of interventions required during the extension will depend on service priorities, annual service plans and the intervention programme. Approximately 2400 interventions in Leeds, 300 in Bradford and 400 in Wakefield rated B to E (including unrated premises) are anticipated to be included in the contract extension.
- 2.11. Within West Yorkshire there are well established partnerships and collaboration between the five authorities in relation food safety and hygiene. Leeds City Council, Bradford MDC and Wakefield MDC have worked collaboratively in the joint procurement process for the existing contract, which will continue during the extension period.
- 2.12. The benefits of the joint procurement and contract include improving and maintaining consistency, and improving service to businesses and residents 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 31<sup>st</sup> March 2020 and Leeds City Council, Bradford MDC, and Wakefield MDC need confirmation on the arrangements for the delivery of Official Control interventions within their respective authorities.
- 3.2. All three Councils are ready to continue with the process and make arrangements for the continuation of the contract once approval has been confirmed.

### **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 extension 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 contract extension 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 use of external contractors has been found to be a cost effective way of delivering the Council's statutory obligations in relation to food interventions. Should the Local Authority have to employ officers to carry out the projected intervention work, it is estimated that 5.7 full time equivalents would be required based on National Audit Office guidance. It should be noted that this estimate is for interventions only and does not include any other regulatory or enforcement work.
- 4.4.3. The resources for the contract for Leeds City Council have been budgeted for £67,500, which is included in the budget for 2020/21.
- 4.4.4. Quarterly contract management meetings have been held with Osborne Richardson at which emerging challenges to contract

delivery and business continuity have been discussed with the participating local authorities.

- 4.4.5. Specifically the pressure of being able to attract and retain sufficient food inspectors to deliver the contract specification for each of the participating authorities has been recognised and documented at these meetings.
- 4.4.6. Food safety legislation, the Food Law Code of Practice and contract specification require that Official Food Control Interventions are only carried out by inspectors meeting specific qualification and competency requirements outlined by the Food Standards Agency in the Code of Practice.
- 4.4.7. Since the contract commenced in May 2018 it has been reported that the market has changed significantly with the demand for suitably qualified, competent and experienced food inspectors being currently at an all-time high. This has been regularly reported to the participating authorities as having an impact on the availability of resources to service the contract and on the market rates paid for inspectors to carry out this work.
- 4.4.8. Given the current reported market position, the contract provider has expressed serious reservations about accepting an extension to the existing contract without amendment to the current contract rates. In order to attract suitably qualified, competent and experienced contract inspectors, and be able to deliver the interventions to the quality requirements in the contract specification, the contract provider has proposed an overall price increase on the current rates paid for each risk category of intervention (see Appendix 2: Current and Proposed Rates for Official Food Control Interventions).
- 4.4.9. Without changes to the existing rates, the contract provider has indicated they may not be able to meet the contract demands and would be reluctant to accept the 1 year contract extension on the existing price structure.
- 4.4.10. The current and proposed pricing structure is outlined in Appendix 2: Current and Proposed Rates for Official Food Control Interventions. Both Wakefield MDC and Bradford MDC have confirmed that they accept the proposed price increase and following discussions considered value for money. The use of suitably qualified, competent and experienced contract inspectors ensures value for money, quality is maintained, the reduced need for follow-up work by internal staff, and delivery of Official Food Control interventions.

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

- 4.5.1. The current contract was procured 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 authority in accordance with their own council's governance rules.

4.5.2. The Chief Officer Elections and Regulatory has delegated authority to approve the extension under Communities and Environment Sub-Delegation scheme.

4.5.3. The decision to extend will not be subject to call-in.

#### **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 food safety legislation.

4.6.2. If the request to approve the extension is not given, the Council will not meet requirements to provide Official Controls and meet its obligations to complete a food intervention programme. This will lead to audit by the Competent Authority, the Food Standards Agency.

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

4.6.4. Should the option to extend the current contract not be taken up then a new procurement process will need to be carried out with a formal tender process. It should be noted that given the timescales there will be a gap in service delivery.

4.6.5. Should this be the case, as there are only a limited number of providers of food contracts, it is believed that the current contractor would submit a tender using the proposed higher prices.

### **5. Conclusions**

5.1. The current contract with the proposed changes will continue to meet the quality and technical specification requirements of the authority with the price changes identified as above and still represents value for money.

5.2. The duration of the extension will be 12 months (1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021) and will allow the local authority to continue to meet its statutory obligations to deliver Official Food Controls.

### **6. Recommendations**

6.1. The Chief Officer Elections and Regulatory is recommended to note the content of this report and approve the recommendations to award the extension of the contract for the provision of Official Control interventions to

Osborne Richardson for a period of 12 months (1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021).

## 7. Appendices

7.1. Appendix 1: Delegated Decision Notification 2018

7.2. Appendix 2: Current and Proposed Rates for Official Food Control Interventions

<b>Risk Category</b>	<b>Current Rate</b>	<b>Proposed Rate from 1<sup>st</sup> April 2020</b>	<b>Difference/Increase</b>
<b>A</b>	£76	£82	£6
<b>B</b>	£64	£75	£11
<b>C</b>	£43	£52	£9
<b>D</b>	£40	£50	£10
<b>E</b>	£31	£40	£9
<b>Void</b>	£14	£16	£2

## 8. Background Documents

8.1. None