

Report of Environmental Health Manager
Report to Chief Officer Elections & Regulatory

Date: 11th May 2020

Subject: Request to vary contract term for the Domestic Pest Control Service from June 2020, under Public Contracts Regulations 2015, 72 (1) (e)

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- Leeds City Council provides a domestic pest control service to owner occupiers, social and private landlords. The administration of the service is carried out internally but the actual pest control work is outsourced to a contractor. The Council charges customers directly and pays the contractor their agreed fee per job.
- The current contract which has been in place for four years expires on the 31st May 2020.
- A new procurement exercise is underway with tender applications received on the 5th May and it is expected that the new contract will commence on 1st September 2020.
- In order to ensure the provision of a domestic pest control service to residents of Leeds may continue in the interim period it proposed to vary the end date of the current contract to the 31st August 2020 utilising the provisions laid out in The Public Contracts Regulations 2015. This will enable the completion of the procurement and allow adequate lead in for the new contract to commence on the 1st September 2020.

2. Best Council Plan Implications (see the [latest version of the Best Council Plan](#))

- Domestic pests carry a wide range of disease causing organisms. Research has shown that living in pest infested premises is likely to have an adverse effect on physical and mental wellbeing. The provision of a sustainable and affordable domestic pest control service contributes towards the Best Council Plan.
- The Domestic Pest Control Service contributes to the Plan's outcome that everyone should live in good quality homes with clean and cared for places.

3. Resource Implications

- Financial provision for the continuation of the existing contract is available through the existing budget. Contractor costs for the provision of the service will be in the region of £15,000 per month.
- The current contractor has indicated they will be able to continue providing a service for an additional 3 months on the same specification and terms as the outgoing contract.
- The current contractual arrangement continues to represent value for money.

Recommendations

- a) The Chief Officer Elections and Regulatory is recommended to approve a variation to the current domestic pest control contract and amend the end of the contract date to 31st August 2020.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval from the Chief Officer Elections & Regulatory to vary the current domestic pest control contract and extend the contract end for an additional 3 months up to the 31st August 2020.

2. Background information

- 2.1 Although it is not statutory, the Council maintains a domestic pest control service for reasons of public health. The service is offered at a comparable and often lower cost than most established private providers and the customer has the added benefit of the Council monitoring contractor performance and the quality of work.
- 2.2 The procurement process is underway to appoint a new contract for the provision of domestic pest control offer to Leeds residents. There is also a long term ambition to bring the service back in house in the future. Work is ongoing to assess the feasibility of doing so and the resources required to provide such a service.
- 2.3 As any new contract award may have implications relating to TUPE a 3 month consultation is required as part of the procurement process. This has increased the timescale of the tender process and resulted in the need to extend the current contract for a 3 month period. It is important to note that any TUPE arrangements relating to employees would be between the outgoing and incoming contractor. Council employees involved in the domestic pest control service will not be affected by any TUPE conditions.

3. Main issues

- 3.1 If approved the current contract will expire on the 31st August 2020. It is proposed to continue using an external contractor to provide the service and to let a new contract of 12 months with the option to extend for a further 12 months. This relatively short contract period will allow the service to continue whilst the proposal to set up an in house service can be fully and properly explored.
- 3.2 The contract provides a wide range of pest control services to Leeds residents including Housing Leeds and private tenants and owner occupiers. If the current contract was not extended there would be a risk that the service could not be provided between 31st May and the 31st August.

The Public Contracts Regulations 2015

- 1.1 The Public Contracts Regulations 2015 provide for the framework for tendering and appointing contracts.
- 1.2 Regulation 72(1)(e) states contracts and framework agreements may be modified without a new procurement procedure: *“where the modifications, irrespective of their value, are not substantial within the meaning of paragraph (8).”*
- 1.3 Paragraph (8) has the following stipulations: *“A modification of a contract or a framework agreement during its term shall be considered substantial for the purposes of paragraph (1)(e) where one or more of the following conditions is met.”-*

(a) *“the modification renders the contract or the framework agreement materially different in character from the one initially concluded.”*

This is not the case as the service requirement is not being changed in any aspect.

(b) *“the modification introduces conditions which, had they been part of the initial procurement procedure, would have –*

- *allowed for the admission of other candidates than those initially selected,*
- *allowed for the acceptance of a tender other than that originally accepted, or*
- *attracted additional participants in the procurement procedure.”*

It is considered unlikely that if the original contract had been advertised for an additional three months it would have attracted any more bidders or changed the outcome of the tender.

(c) *“the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement.”*

It is again thought that this is not applicable as the contract was let to the lowest bidder for the last procurement exercise.

(d) *“the modification extends the scope of the contract or framework agreement considerably.”*

This variation will extend the period of the contract but not the scope of the contract. Even if it could be argued that varying the end date is extending the “scope”, a three month “extension” is not considered as a considerable modification.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 A public consultation exercise by means of a web survey was undertaken throughout March 2017 prior to awarding the original contract to gauge public opinion to the proposed price changes.
- 4.1.2 At the same time a benchmarking exercise was carried out to compare the proposed pricing structure with other Local Authorities and a selection of both national and local private contractors. The proposed prices are similar to those offered by other local authorities and cheaper than the majority of private companies.
- 4.1.3 No further consultation has been carried out specifically in relation to the proposed short term extension to the existing contract.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 No specific issues related to the contract extension proposal. A screening assessment has been carried out and used to inform the original and ongoing procurement processes.

4.3 Council policies and the Best Council Plan

- 4.3.1 Domestic pests carry a wide range of disease causing organisms. Research has shown that living in pest infested premises is likely to have an adverse effect on physical and mental wellbeing. The provision of a sustainable and affordable domestic pest control service contributes towards the Best Council Plan priority of keeping people safe from harm and the Plan's outcome that everyone should live in good quality homes with clean and cared for places.
- 4.3.2 The eradication and prevention of pest infestations contributes towards the Council priority to reduce health inequalities.

Climate Emergency

- 4.3.3 The Contractor shall in performing the service for this contract meet all Legislation, Guidance and Good Industry Practice in environmental management and meeting the objectives of the City Councils sustainability policies.

4.4 Resources, procurement and value for money

- 4.4.1 The contract will be funded from existing budget of the pest control team and there will be no additional spend in the financial year over that projected in budget monitoring returns.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The procurement complies with all relevant legislation and Council policy.

4.6 Risk management

- 4.6.1 The performance of the contractor will continue to be routinely monitored with key performance indicators and financial penalties for poor performance included within the contract terms and conditions.
- 4.6.2 The extension of the current contract for a three month period will allow the Council to continue to offer domestic pest control services up until a new contract is in place and operational.

5. Conclusions

- 5.1 The report outlines the reasons why an extension to the current contract should be approved in order to ensure the continuation of the domestic pest control service whilst the ongoing procurement process is completed.

6. Recommendations

- 6.1 The Chief Officer Elections and Regulatory is recommended to approve a variation to the current domestic pest control contract and amend the end of the contract date to 31st August 2020.

7. Background documents¹

- 7.1 None.

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.