

Modification of Contracts for Leeds City Council Insurance Policies

Date: 28th March 2023

Report of: Head of Audit

Report to: Director of Resources

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

- The Council has Long Term Agreements in place providing insurance across a range of significant risk areas. The agreements contained within this decision are in place with two separate contractors, and both have a current end date of 31st March 2024
- Authorisation is sought to modify the end dates of these contracts to 31st March 2025, enabling the Council to take advantage of beneficial rates presented for the next two years through each of the agreements. This in turn would provide a level of stability and continuity in provision.

Recommendations

- a) The Director of Resources is recommended to give authority to utilise Regulation 72(1)(e) of the Public Contracts Regulations 2015, which states Contracts and may be modified without a new procurement procedure “where the modifications, irrespective of their value, are not substantial ...” and to vary the contracts for Casualty, Property, Motor Fleet, Engineering Inspection, Terrorism and Sabotage to modify the end dates by one year to 31st March 2025.

What is this report about?

- 1 The Council's insurance strategy reflects a balanced approach to insurance. External insurance is purchased to provide cover against catastrophic losses and more frequent and low value claims are paid from the insurance provision which is funded from the council's own revenue budget.
- 2 In April 2019, following a tender exercise, a contract was awarded to Zurich Insurance PLC (Zurich Municipal) covering several insurance policies which are categorised as Property, Casualty, Motor Fleet, and Engineering Inspection Services. The tender also resulted in the award of a contract to Charles Taylor Services Limited for the provision of Terrorism and Sabotage insurance. Each of the contracts currently runs for a five year period ending on 31st March 2024.
- 3 In evaluating the options available ahead of making arrangements for future provision of insurance cover in these areas, dialogue with each of the contracted providers has resulted in options being presented to the authority which would enable the contract end dates to be modified to 31st March 2025. In each instance these proposals present an indicative financial benefit to the authority (to be explored further in the resources section below) as well as providing an element of stability and continuity.
- 4 Modification of the contracts would be carried out under Regulation 72(1)(e) of the Public Contracts Regulations 2015. This provides the opportunity for the authority to modify the contracts without a new procurement procedure where the modifications, irrespective of their value, do not meet the definition of "substantial" as outlined within the regulations.

What impact will this proposal have?

- 5 The various insurance policies covered by the contracts are as follows:
 - Property – Fire and other risks on council buildings and contents
 - Casualty – Liability insurance cover
 - Motor Fleet – Third party liability cover for vehicle use
 - Engineering Inspection Services – Statutory inspection of boilers, lifting and pressure plant, and local exhaust ventilation systems
 - Terrorism and Sabotage – Damage or destruction of council buildings and contents and business interruption

Having insurance in place in these areas negates the possibility of the Council being called upon to meet any losses sustained above the individual policy excesses.

- 6 The proposals enable the continuity of insurance cover in the above areas at indicative rates that are financially beneficial to the authority when compared against the current contracts in place. For the contract with Zurich Municipal, it has been agreed that the indicative rate increase for renewal across 2023/24 and 2024/25 will be lower than the rate of increase applicable under the current contract. For the contract with Charles Taylor Services Limited, it has been agreed that the premium rates will be held at the proposed 2023/24 level for an additional 12 month period subject to compliance with the Annual Review Clause which rests upon the disclosure of certain information around exposure, valuations and claims. Modifying the contract end dates to 31st March 2025 will provide a period of stability and continuity, enabling arrangements to be made to re-procure the contracts over the course of 2024.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 7 The contracts provide insurance cover for the authority providing a level of protection against various unknown events and risks.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted?

Yes

No

- 8 Consultation has been undertaken with the Council's Procurement and Commercial Service (PACS) to ensure that the proposed course of action is in accordance with Public Contracts Regulations 2015 and the Council's Contracts Procedure Rules (CPRs).

What are the resource implications?

- 9 By modifying the end date to 2025 for the Long Term Agreement with Zurich Municipal, the Council would be in a position to make an indicative saving on the 2023/24 premiums charged through this contract of £136,000 (exclusive of Insurance Premium Tax) when compared to the current agreement. This would provide the authority with a proposed potential saving of circa. £304,640 over the two year period when including Insurance Premium Tax along with rate stability for the 2024/25 financial year. This provides an indicative saving on the anticipated insurance premiums covering property, casualty, motor fleet and engineering inspection services.
- 10 By modifying the end date to 2025 for the Long Term Agreement with Charles Taylor Services Limited for terrorism and sabotage cover, the contractor has confirmed that the indicative premiums currently proposed for 2023/24 will also apply for 2024/25 subject to compliance with the Annual Review clause. With increases generally applied to premiums year on year, this provides the council with an element of financial stability over the two year period.
- 11 The total indicative cost associated with the decision to modify the contracts and extend the Long Term Agreements by one year will be reflected in the cost of premiums in 2024/25. At the current time, the indicative costs (inclusive of Insurance Premium Tax) are forecasted at approximately £3.5million for the cover provided by Zurich Municipal and £168k for the cover provided by Charles Taylor Services Limited. It should be noted that, should the Council choose not to modify the contracts, there would be a need to re-procure the contracts as proceeding without insurance cover is not a realistic option. Therefore there would be a cost to the authority regardless.
- 12 Payment of the insurance premiums is made annually from the budget held by the Council's insurance section. The costs associated with insurance provision are then recharged to the corresponding service areas. Any potential savings made through insurance premiums therefore help to ease the pressure on the Council's revenue budget, demonstrating alignment with the Council Value of Spending Money Wisely.

What are the key risks and how are they being managed?

- 13 Forecasting insurance premiums carries an inherent degree of uncertainty given the impact of any changes in the level of cover required and the risk exposure within the associated areas. Whilst the indicative rate increases across each area present an advantageous proposal,

should it be deemed that the Council's exposure to risk increases in any of these areas then this is likely be reflected in the pricing of insurance premiums. Whilst in some circumstances external factors may be such that the authority cannot control or avoid this, there are also opportunities to mitigate the impact by ensuring arrangements are in place both proactively and reactively to manage risk across the areas covered. The Council has well established risk management arrangements in place.

What are the legal implications?

- 14 The Director of Resources has the required authority to make the proposed decision.
- 15 There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 16 The modification of the contracts is being invoked under Regulation 72(1)(e) of the Public Contracts Regulations 2015. This provides the opportunity for the authority to modify the contracts without a new procurement procedure where the modifications, irrespective of their value, do not meet the definition of "substantial" as outlined within the regulations. The applicability of this clause has been checked and confirmed with the PACS Legal Team.
- 17 It is considered that all the above condition is met however, if Regulation 72(1)(e) is used incorrectly, and it is subsequently determined that the above conditions are not met, the Council may be open to legal challenge that it has breached the procurement rules. Further, an aggrieved contractor could potentially argue that it has missed out on a competitive opportunity and thereby seek damages for that loss of opportunity.
- 18 The above comments should be noted. In making their final decision, the Director of Resources should be satisfied that the course of action chosen represents best value for the Council.

Options, timescales and measuring success

What other options were considered?

- 19 The other option would be for the Council to continue with the current contractual arrangements which will elapse on 31st March 2024. Whilst this presents no immediate risk in respect of the continuity of cover, opting to do so would mean that the authority would be unable to take advantage of the advantageous indicative rates offered. It would also mean that the Council would need to immediately commence preparation for re-tendering the contracts.

How will success be measured?

- 20 The contracts are managed in accordance with the 'Policy Administration' section of the tender.

What is the timetable and who will be responsible for implementation?

- 21 Upon confirmation of the decision, the notification to modify the contracts will be issued to the relevant contractors.

Appendices

None

Background papers

None