

# Modification of Contracts for Leeds City Council – Main Insurance Policies

Date: 3<sup>rd</sup> November 2024

Report of: Insurance Manager

Report to: Interim Assistant Chief Executive – Finance, Traded and 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 Zurich Municipal (ZM) as the Council's main direct Insurer and has a current end date of 31<sup>st</sup> March 2025
- Authorisation is sought to modify the end date of this contract to 31<sup>st</sup> March 2027, enabling the Council to take advantage of beneficial future fixed rates presented for the next two years through the agreement. This in turn would provide a level of stability and continuity of provision.

## Recommendations

- a) The Interim Assistant Chief Executive – Finance, Traded and Resources is recommended to give authority to utilise Regulation 72(1)(e) of the Public Contracts Regulations 2015, which states Contracts may be modified without a new procurement procedure, to agree to a new two-year extension to the existing Zurich Municipal main insurance contracts covering the period 01.04.2025 to 31.03.2027. This will be the final extension before a full re-tender exercise is completed (beginning in circa May 2026).

## 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 broadly categorised as Property, Casualty, Motor Fleet, and Engineering Inspection Services. The contract was to run for a five-year period ending on 31<sup>st</sup> March 2024. In March 2023 the end date was modified, providing an extension for a further year until the 31<sup>st</sup> of March 2025
- 3 In evaluating the options available ahead of planning for future provision of insurance cover in these areas, dialogue with Zurich Municipal has resulted in options being presented to the Council which would enable the contract end dates to be modified further to the 31<sup>st</sup> March 2027. This proposal presents an element of stability and continuity in future premium increases helping to combat the effects of unpredictable inflation. Subject to provisos regarding material fact changes and claim experiences it limits premium increases in both the 2025/26 and 2026/27 years to the following:-
  - Property 9%
  - Casualty 5% (Employers/Public Liability etc)
  - Motor 7%
  - Other classes (to follow Property increase percentage)
- 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 Zurich Municipal contract are as follows (main covers):
  - Property – Fire and other risks on Council buildings and contents
  - Casualty – Liability insurance cover (Employers, Public Liability, Officials Indemnity etc)
  - 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 etc.
  - There are a number of smaller policies such as Libel & Slander, Hirers Liability, Crime, School Journeys, Contractors Plant, Property Owners Liability/Loss of rent

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 Council.

## 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 Council providing a level of protection against various unknown events and risks.

### What consultation and engagement has taken place?

Wards affected: N/a – Council wide.

Have ward members been consulted?  Yes  No

- 8 Consultation has been undertaken with the relevant Executive Member, the Council's Insurance Broker Marsh, Procurement and Commercial Service (PACS) as well as with the Principal Corporate Governance Manager. Advice has been sought to ensure that the proposed course of action is in accordance with Public Contracts Regulations 2015 and the Council's Contracts Procedure Rules (CPRs). No further extensions will be requested, and a full 5-year re-tender exercise will begin in circa May 2026.

### What are the resource implications?

- 9 By modifying the Long-Term Agreement end date to 2027 the Council would be in a position to make indicative savings on the 2025/26 and 2026/27 premiums charged through this contract although it is at this time not possible to calculate with any certainty what they would be given:-
- a) Renewal premiums are based on insurance market conditions at the time (we would only get these in March of each year for a renewal on the 1<sup>st</sup> April). These market conditions are in turn based on internal and external market factors
  - b) Renewal premiums are based on various LCC metrics which can vary greatly (wage roll, property schedule, income etc)
  - c) Renewal premiums are based on LCC claims experience which by its nature can be unpredictable.

By agreeing to the new 2 year LTA, so long as LCC metrics do not vary too widely, then this proposal provides some certainty on the renewal rates to be applied for the next two years which can enable more accurate budgeting.

- 10 It should be noted that, should the Council choose not to modify the contract, there would be a need to re-procure the main insurance contract as proceeding without insurance cover is not a realistic option especially where insurance is compulsory under statute (Employers Liability, Motor Insurance and Engineering Inspections). The resources required to complete a full tendering exercise are currently effectively deployed in exploring efficiencies within internal arrangements and processes.
- 11 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?

- 12 As mentioned previously 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 LTA 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 will likely be reflected in the pricing of insurance premiums. Whilst

in some circumstances external factors may be such that the Council 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?**

- 13 The Interim Assistant Chief Executive – Finance, Traded and Resources has the required authority to make the proposed decision.
- 14 There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 15 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.
- 16 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.
- 17 The above comments should be noted. In making their final decision, the Interim Assistant Chief Executive – Finance, Traded and 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?**

- 18 The other option would be for the Council to continue with the current contractual arrangement which will elapse on 31<sup>st</sup> March 2025. 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 current indicative rates offered. It would also mean that the Council would need to immediately commence preparation for re-tendering the contracts and deviate resource from other value-adding activities.

#### **How will success be measured?**

- 19 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?**

- 20 Upon confirmation of the decision, the notification to modify the contract will be issued to Zurich Municipal and the extension agreement signed by the appropriate LCC Officer.

### **Appendices**

None

### **Background papers**

None