

Scotland Excel

To: Executive Sub Committee

On: 13 October 2017

**Report
by
Director Scotland Excel**

Update on the cost incurred to defend the legal challenge on the framework agreement for Demolition Services

1 Introduction

Following a discussion at the Scotland Excel Executive Sub Committee meeting held on 15th September 2017, it was requested that an update be provided at the next available meeting regarding on the final cost incurred defending the legal challenge against the award of the framework for Demolition Services. This paper provides a summary of the concluded position.

2 Background

In 2016, Scotland Excel and Renfrewshire Council were subjected to a legal challenge in the award of the framework agreement for Demolition Services. This was successfully defended at the Court of Session in September 2016.

Despite being awarded costs, the pursuer challenged this and when this failed both parties were unable to reach agreement in the value of costs to be recovered. This resulted in proceeding to a taxation hearing, following which a net payment of £29,900 was received by Scotland Excel.

Although we have a PI insurance policy, and the insurers agreed to underwrite the claim, the excess sum in the policy is £50,000. As such, the net cost incurred was £20,100.

Under the Scotland Excel terms and conditions of membership, clause 10.3, within Indemnity & Insurance, it is understood that additional costs incurred will be recovered from all member councils on a pro-rata basis in line with the terms of membership.

However, on the basis that there was less of a draw on reserves during 2016/17, primarily due to efficiencies made, it is proposed that the net cost is covered by current reserves. Given the low value that Scotland Excel holds in reserve, this represents an unusual circumstance, and as such it should not be concluded that this will become customary.

3 Recommendations

Members are requested to note the concluded position of the successfully defended challenge.