

**Attachment 1 – Confidential Information – made public with redactions on October 27, 2016**

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**Management of the City’s Long-Term Disability Benefits – Phase One: Improving City Management to Address Growing Trends in Long-Term Disability Benefits**

<b>Date:</b>	October 6, 2015
<b>To:</b>	Audit Committee
<b>From:</b>	Auditor General

**CONFIDENTIAL RECOMMENDATIONS**

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**The Auditor General recommends that:**

1. City Council request the City Manager to review the appropriateness and financial impact of providing temporary employees Long-Term Disability benefits.
2. City Council request the City Manager to review the Long-Term Disability benefit plan provisions including salary replacement level and salary threshold for returning employees to work.
3. City Council request the City Manager to review City policies and practices in relation to continuing Long-Term Disability benefits to employees terminated with cause and employees facing allegations of fraud or disciplinary action with a view to minimizing potential abuse of Long-Term Disability benefits.
4. City Council request the Director, Pension, Payroll and Employee Benefits Division, in consultation with the Executive Director, Human Resources Division, to review the appropriateness and financial impact of ending the employment relationship by offering settlement options to employees deemed totally disabled to age 65 and are unlikely to return to work.

## CONFIDENTIAL INFORMATION

### Provision of Long-Term Disability Benefits to Temporary Employees

*City's 3,200 full-time temporary employees are entitled to LTD benefits after 6 months of service*

According to current collective agreements and City policy, all full-time temporary employees are eligible for employee benefits after six months of service including Long-Term Disability (LTD) benefits at 75 per cent salary coverage.

As of July 2015, the City had approximately 3,200 temporary employees. These include contract and seasonal employees.

*Currently 84 temporary employees are in receipt of LTD benefits*

As of July 2015, 84 active LTD claims were from temporary City employees. Of the 84 temporary employees receiving LTD benefits, 67 (80%) were unionized employees and 17 (20%) were in management or exempt positions. Table 1 below provides a breakdown on the years of service prior to receipt of LTD benefits among the 84 temporary employees.

**Table 1: Years of Service Prior to Receipt of LTD Benefits, Temporary City Employees, 2015**

Years of Service	Number of Temporary Employees	Percentage of Total
Less than 3 years	14	17%
3 – 5 years	15	18%
Over 5 to 10 years	32	38%
Over 10 years	23	27%
<b>Total</b>	<b>84</b>	<b>100%</b>

The annual cost of benefit payments to these temporary employees is approximately \$2.4 million. Future LTD benefit costs for these employees until age 65 can potentially amount to approximately \$38 million.

*Many temporary City employees have worked for the City for long periods*

We recognize that many temporary City employees have worked for the City for long periods. As shown in Table 1, approximately 65 per cent of the 84 temporary employees receiving LTD benefits had worked for the City longer than 5 years prior to commencing their LTD leave.

***A number of other agencies do not extend LTD benefits to temporary employees***

Most government agencies and private companies we contacted do not extend LTD benefits to their temporary employees. The following cities and government agencies do not provide LTD benefits to temporary employees:

- The Province of Ontario Government
- The BC Public Service Agency
- City of Ottawa
- Toronto Transit Commission (TTC)

***Provision of LTD benefits to temporary employees is not a standard practice, according to Manulife***

In Calgary, temporary employees are entitled to LTD benefits only if specifically stated in individual contracts. The Toronto Police Service (TPS) provides LTD benefits to temporary employees but the benefit is capped at a maximum \$2,000 per month.

According to Manulife staff, providing LTD benefits to temporary employees is not a standard insurance practice.

***The City's obligation to provide income replacement can go extensively beyond the original employment period***

In providing LTD benefits to temporary employees, the City extends its employer obligation beyond the term of the original employment contract, and the obligation for income replacement can potentially be years until temporary employees reach age 65.

It can be apparently more difficult to return a temporary employee to work than to return a permanent employee to work. If employment is offered on a temporary basis, it is likely that by the time the employee recovers from the long term illness, the original temporary position will no longer be available or needed. As a result, the "own occupation" and "any occupation" criteria in the City LTD policy for returning an employee to work may not be applicable.

***Difficult to return a temporary employee to work when the employment is no longer available or needed***

Manulife staff advised that under these circumstances they would need to job search outside of City employment for the temporary employee and the employment would still need to meet the 75 per cent salary threshold stipulated in the City LTD policy. Manulife could not inform us of the number of temporary City employees successfully placed outside the City over their years as the Administrative Services Only provider.

**Recommendation:**

- 1. City Council request the City Manager to review the appropriateness and financial impact of providing temporary employees Long-Term Disability benefits.**

**Reassessment of Long-Term Disability Benefit Plan Provisions**

*Status quo may no longer be viable*

In our view, recent increases in City LTD claims and associated benefit costs may warrant a reassessment of LTD benefit plan provisions. The status quo may no longer be suitable given the pace and magnitude of recent rises in LTD claims.

*City LTD benefit plan provisions are comparatively generous*

City employees are entitled to LTD benefits as part of the employee health benefit package. In comparison, the City's LTD salary coverage and return to work (RTW) salary threshold are more generous than a number of government agencies. Table 2 compares City LTD salary coverage and related provisions for unionized employees with other government agencies.

*A high income replacement level may act as a disincentive to RTW*

The goal of the LTD benefit is to provide an adequate income replacement for employees who are totally disabled. However, relatively high levels of income replacement can act as a disincentive for employees to return to work. To a certain extent, TTC's lower LTD rate can be seen as an example showing the relationship between income replacement and RTW.

**Recommendation:**

- 2. City Council request the City Manager to review the Long-Term Disability benefit plan provisions including salary replacement level and salary threshold for returning employees to work.**

**Table 2: Comparison of Long-Term Disability Salary Coverage and Related Provisions for Unionized Employees Between the City and Other Government Agencies, 2015**

**[REDACTED]**



**Provision of LTD Benefits To Employees Terminated with Cause or Facing Allegations of Fraud or Disciplinary Action**

Although we were unable to access Manulife claim records, we were able to review Manulife's LTD reports and complaints reported to the Auditor General's Fraud and Waste Hotline. From substantiated Hotline complaints and our analysis of LTD data, we identified two common issues as follows:

**Employees terminated with cause due to fraud continue to receive LTD benefits**

*Employees can continue to receive LTD benefits despite having been terminated with cause*

Our review noted that three employees continued to receive LTD benefits even though they had been terminated with cause relating to fraudulent use of health benefits. While the City ceased provisions of health benefits (e.g. dental and prescriptions) to these employees upon employment termination, they continued to receive LTD benefits.

A fourth employee who committed work related fraud was terminated with cause but continued to receive LTD benefits. The employee grieved and through the grievance settlement the employee was allowed to retire early with full pension. The LTD benefits ceased.

**Employees being investigated for fraud or facing disciplinary action moved to LTD leave**

*Employees started LTD leave close to the time when they might be facing disciplinary actions*

Four additional cases were identified wherein the employees commenced their sick leave and moved to LTD leave when facing possible management action for poor performance or potential fraud.

As we understand from City staff and Manulife, the coverage for LTD benefit is based on when an illness/injury first occurs, rather than when a LTD application is approved. As long as an employee becomes ill while being employed by the City, the employee is entitled to LTD benefits even if terminated for cause prior to LTD benefit approval.

While we have highlighted four cases below, it is likely other similar cases exist but have not been identified or reported. A brief description of the four cases is provided in Table 3 below.

**Table 3: Brief Description of Four Cases Related to Continuation of LTD Benefits, 2015**

**[REDACTED]**



***Certain criteria in the Plan Document are based on Manulife's standard insurance practices***

The criteria for employee entitlement to LTD benefits are specified in a LTD Plan Document, prepared by Manulife based on City Collective Agreements and Manulife's insurance practices.

The Plan Document does not contain any provision relating to employees facing disciplinary actions or allegations of fraud. Furthermore, Manulife advised that it is standard insurance practice for employers to continue LTD benefits even if employees have been terminated with cause. In general, only if the "cause" pertains to LTD fraud are LTD benefits terminated.

Manulife, however, indicated that since it is administering the benefit plan for the City, the City has the prerogative to amend the Plan Document to reflect its policy.

## Recommendation

- 3. City Council request the City Manager to review City policies and practices in relation to continuing Long-Term Disability benefits to employees terminated with cause and employees facing allegations of fraud or disciplinary action with a view to minimizing potential abuse of Long-Term Disability benefits.**

## Settlement of LTD Claims for Employees Deemed Totally Disabled to Age 65

*PPEB identified the need to explore options for claimants deemed totally disabled to age 65*

In 2012, the Auditor General issued a report entitled “Improving Reporting and Monitoring of Employee Benefits” identifying a need to improve Manulife's reporting to the City. In late 2012, in response to the AG report, the PPEB division initiated a review of the LTD claims management process.

One of the improvement initiatives identified by PPEB staff in 2012 was to explore options to severance the employment relationship with employees deemed totally disabled to age 65. This matter is still outstanding.

*A settlement option may be advantageous to the City and acceptable to the claimants*

Currently there are 109 employees receiving LTD benefits for longer than 15 years. The oldest benefit start date goes back to 1986. Annual LTD benefit payments to these 109 employees are approximately \$2.1 million. Depending on a claimant's age and health conditions, in certain circumstances it may be advantageous for the City to offer a settlement option for selected claimants.

## Recommendation:

- 4. City Council request the Director, Pension, Payroll and Employee Benefits Division, in consultation with the Executive Director, Human Resources Division, to review the appropriateness and financial impact of ending the employment relationship by offering settlement options to employees deemed totally disabled to age 65 and are unlikely to return to work.**



**Management’s Response to the Auditor General’s Report  
 Management of the City’s Long-Term Disability Benefits  
 Phase One: Improving City Management to Address Growing Trends in Long-Term Disability Benefits  
 Confidential Recommendations**

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: <i>(Comments are required only for recommendations where there is disagreement.)</i>	Action Plan/Time Frame
1.	City Council request the City Manager to review the appropriateness and financial impact of providing temporary employees Long-Term Disability benefits.	X			<p>1. 2015, Q3 – The Director of PPEB is reviewing these provisions with the Director, Employee &amp; Labour Relations, Legal Services and the City's bargaining committee and appropriate proposals will be considered for the upcoming rounds of collective bargaining.</p> <p>2. 2016, Q3 - Following the collective bargaining with the CUPE Unions, the City Manager will report to Council to consider changes consistent with the outcome of the collective bargaining process.</p>
2.	City Council request the City Manager to review the City’s Long-Term Disability benefit plan provisions including salary replacement level and salary threshold for returning employees to work.	X			<p>1. 2015, Q3 – The Director of PPEB is reviewing these provisions with the Director, Employee &amp; Labour Relations, Legal Services and the City's bargaining committee and appropriate proposals will be considered for the upcoming rounds of collective bargaining.</p> <p>2. 2016, Q3 - Following the collective bargaining with the CUPE Unions, the City Manager will report to Council to consider changes consistent with the outcome of the collective bargaining process.</p>

Rec No.	Recommendations	Agree (X)	Disagree (X)	Management Comments: <i>(Comments are required only for recommendations where there is disagreement.)</i>	Action Plan/Time Frame
3.	City Council request the City Manager to review City policies and practices in relation to continuing Long-Term Disability benefits to employees terminated with cause and employees facing allegations of fraud or disciplinary action with a view to minimizing potential abuse of Long-Term Disability benefits.	X			1. 2016, Q4 – The Director of PPEB, in consultation with the Executive Director of Human Resources and Legal Services, will review and consider options available to amend the LTD plan to minimize the potential abuse of LTD benefits, and where practicable implement the changes for the new contract in 2017.
4.	City Council request the Director, Pension, Payroll and Employee Benefits Division, in consultation with the Executive Director, Human Resources Division, to review the appropriateness and financial impact of ending the employment relationship by offering settlement options to employees deemed totally disabled to age 65 and are unlikely to return to work.	X			1. 2016, Q2 – The Director of PPEB, in consultation with the Executive Director of Human Resources and Legal Services, will explore severance of employment options for employees who have met the Change of Definition criteria and who are less than 65 years old.  This review will consider the options for both unionized and non-union employees and identify the potential options for each employee group, including the requirement to negotiate any changes with the applicable bargaining unit for unionized employees.