CABINET

18 December 2019

Title: Procurement of Insurance Contracts	
Report of the Cabinet Member for Finance, Performance and Core Services	
Open Report	**For Decision**
Wards Affected: None	**Key Decision:** No
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Accountable Director: Helen Seechurn, Director of Finance	
Accountable Strategic Leadership Director: Claire Symonds, Chief Operating Officer	

Summary

The Council's existing main insurance contracts are due to expire on 30 June 2020. The current Insurance programme consists of the main corporate insurance policies which cover the usual business activities of the Council and also the leasehold right to buy policy (which is recharged in full to leaseholders). The leasheolder right to buy policy expires separately on 29 September 2020.

The contracts awarded will be for a period of 3+2 years commencing 1 July 2020 for the main contracts and 30 September 2020 for the leaseholder policy. The contracts are likely to be awarded to multiple providers and forecasts indicate that total expenditure in this area over the potential five-year period will be approximately £9m.

Recommendation(s)

The Cabinet is recommended to:

(i) Agree that the Council proceeds with the procurement of contracts for insurance in accordance with the strategy set out in the report; and

(ii) Authorise the Chief Operating Officer, in consultation with the Cabinet Member for Finance, Performance and Core Services and the Director of Law and Governance, to conduct the procurement and award and enter into the contracts and all other necessary or ancillary agreements with the successful bidder(s).

Reason(s)

To assist the Council in achieving each of its priorities of “A New Kind of Council”, “Empowering People”, “Inclusive Growth” and “Citizenship and Participation” through continued insurance arrangements.

1 Introduction and Background

1.1. The Council manages insurance risk through its own internal fund (the Insurance Fund) and by paying premiums to external insurers where the financial consequences of the risks cannot be borne in-house. Services are recharged to recover the attendant costs of insurance based upon a number of factors, including claims experience. Having adequate external insurance in place is integral to the functioning of the authority, enabling the Council to meet insurable financial losses that may arise from the delivery of services.

1.2. The Council's main insurance contracts are due to expire on 30 June 2020. The current Insurance programme consists of the main corporate insurance policies which cover the usual business activities of the Council and also the leasehold right to buy policy (which is recharged in full to leaseholders) which expires separately on 29 September 2020. A summary of the current insurance arrangements are detailed in paragraphs 1.4 and 1.5 below.

1.3. **Corporate Insurance Cover** - The Corporate insurance cover is provided through a mixture of internal and external arrangements. The Council's insurance fund meets the costs of self-insured claims and claims within the policy deductibles, up to the aggregate stop limit (maximum payable by the Council in each policy year). Costs of claims above these levels are met by the external insurance providers.

1.4. The different categories of insurance under the current contract are detailed below:

Category	Insurer	Policy Deductible	2019/20 Cost
Property	AIG	£250,000	£386,860
Liability	QBE	£250,000	£755,934
Fidelity Guarantee	Zurich Municipal	£10,000	£15,694
Engineering	Zurich Municipal	£100	£26,984
Motor	Zurich Municipal	£250,000	£61,620
Personal Accident & Travel	Zurich Municipal	£15	£8,515

1.5. **Leasehold Right To Buy Buildings Insurance Cover** - As a freeholder, the Council arranges buildings insurance on behalf of its residential leaseholders. The insurance provides extended accidental damage as standard and is rated on a bedroom basis regardless of their location and actual rebuild value, so premiums are set on a one, two, three or four bedroom basis. Zurich Municipal provide this cover to the Council’s 3,587 leaseholders at a cost of £515,557 in 2019/20.

2. Proposed Procurement Strategy

2.1. An actuarial review has been commissioned with the objective to ensure that the Council is achieving value for money whilst ensuring that suitable cover is in place to mitigate our insurable risks.

2.2. As part of this review, the Council's financial position, claims history, current insurance position, statutory position and risk profile is being considered in detail. Consideration is also being given to an alternative, higher deductible. This review allows the Council to review the insurance programme to ensure that it has the right balance between risk and reward and to calculate the impact of considering a higher deductible.

2.3. Insurers tend to view local authorities as high risk mainly due to the risks associated with many statutory council functions and also the traditional risk structuring such as low policy excesses that many local authorities have historically favoured.

2.4. The public sector insurance market is limited and a highly specialist area and the market can be influenced by various factors such as expensive claims, global exposures and the economic climate. The majority of insurers will only deal with local authorities via an insurance broker intermediary. As such, the Council's insurance broker, AJG, will manage the tender process with support from the Procurement team.

2.5. The aggregate annual value of the contracts to be tendered is currently in the region of £1.75m. The proposed procurement is therefore estimated to exceed the European Union threshold for supplies and services and a formal competitive tender is proposed to be undertaken in line with Council's Procurement Standing Orders and the EU Public Contract Regulations 2015.

2.6. The price quality ratio upon which contracts will be awarded will be 70% price & 30% quality. Providers will be ranked per Lot that they can provide based on their tender submission.

2.7. The contracts would be divided into individual lots and an open tendering procedure followed. This approach is intended to encourage greater competition and allow specialist insurers to submit bids for specific lots. Whilst this is a lengthy process it is likely to result in maximum exposure to the range of insurers available. A timetable for this process is set-out below:

Assurance Group	10 October 2019
Procurement Board	18 November 2019
Cabinet approval	18 December 2020
Advertise and send out tender application packs	February 2020
Leasholder Consultation	January
Tender submissions to be returned	April 2020
Tender evaluations and clarifications	May 2020
Approval and award of contract	June 2020
Start of contract delivery	1 July 2020 – main contracts 29 September 2020 – leaseholder cover

3. Options Appraisal

3.1. There were essentially 4 alternative options to the proposed strategy available to address the Council's insurance requirements from 1 July 2020:

A – Extend Current Contracts with Existing Suppliers

B – Tender via Framework Agreement
C – Local Government Association Mutual
D – Full Self-Insurance

3.2. **A - Extend Current Contracts with Existing Insurers** – The current insurance contracts that were let from 1 July 2017 were for a period of 3+2 years. Whilst the contracts therefore come to an end on 30 June 2020, there is the option to extend the current agreements until 30 June 2022 with the same insurance cover being placed with the same companies. Whilst this guarantees continuity of cover, it would need to be with the agreement of the insurance companies and does not guarantee continuity of price. Insurers would be free to reconsider their pricing structure and whilst this may or may not produce a substantial increase across the board, Zurich Municipal have already written to the Council to advise us to expect a significant increase to the Leaseholder cover should we wish to renew from July 2020.

3.3. **B - Tender via Framework Agreement** - For the main Corporate Insurance Cover the Crown Commercial Services (CCS) Framework for insurance (RM3731) is sometimes used to simplify the process. This framework provides a list of insurance companies who have already expressed interest in the public sector insurance market. All providers have already been initially assessed as being capable of providing the range of insurances required by local authorities. This reduces the risk of the Council placing business with an insurer who may not have adequate financial capabilities or who is unable to provide adequate coverage or fully appreciate the specialised risks involved in Council operations.

3.4. Many insurers who are capable and willing to insure local authorities are already on the CCS Framework. Their terms & conditions have already been agreed and the need to conduct lengthy negotiation or consultation is reduced. Non-cashable savings will be made because the timescales of the process and the resources required will be reduced. However, a Brokers Management fee of 0.75% premium and Insurance Premium Tax (IPT) is payable. This route would restrict the Council to using those insurers on the framework.

3.5. **C - Local Government Association (LGA) Mutual** - Due to the limited number of insurance companies in the market willing to insure local authorities, the LGA are developing an Insurance Mutual. The Mutual aims to offer affordable, high quality risk transfer and risk management through a mutual structure for the benefit of the local government sector.

3.6. Discussions have taken place between the Council and the LGA Mutual. The LGA Mutual has advised that they may be able to provide a proposal from July 2020; although it is unclear at this stage exactly which risks that proposal would address and the terms of engagement. Unfortunately it is not possible to delay decisions over the placement of the Council's insurable risks until more is known about what the Mutual have to offer because the Council's existing insurance policies expire on 30th June 2020 and it would be an unacceptable risk to leave the Council wholly uninsured for any period of time.

3.7. The LGA Mutual have confirmed that the Council would not be required to place all their insurable risks with the Mutual, however if the Council wishes to join the

Mutual then they would be required to place significant classes of business with them, such as Property and Liability.

3.8. The Mutual is a recent development in the Local Authority insurance market and questions remain to be answered over their long-term feasibility, including the financial resilience of the Mutual. For example, the public liability profile of the public sector is one of long tail claims which are often reported many years after the event giving rise to the claim. The recent tragedy at Grenfell Tower has also catapulted the issue of adequacy of Limits of Indemnity to the forefront; it will be interesting to see how the proposed Mutual will be able to protect local authorities at the higher levels that are now being requested. The Mutual would of course be able to purchase reinsurance but it will have to compete with existing players, which will add to the costs for any members.

3.9. All insurers and brokers offer a range of services which may come as part of the programme, including risk management, claims management, underwriting guidance, support and training to name but a few. These insurer/broker skills have been honed over a great many years of dealing with risks and in particular those of the public sector. It is unclear at the moment if or how the Mutual is likely to replicate these.

3.10. **D - Full Self Insurance** - Self-insurance would by definition result in premium savings but brings the need to maintain adequate level of resources to meet all likely claims/ liabilities against the organisation.

3.11. If the contract is not re-tendered, the Council will have to completely self-insure against its liabilities. The ability to self-insure is dependent on the provision and maintenance of an adequate internal insurance fund, which for complete self-insurance may be in the tens of million pounds.

3.12. As a measure of the risk arising from claims against the Council over the last five years, the value of reserves has fluctuated somewhat, with reserves in excess of £1m each for a small number of claims. Whilst the value of future claims is difficult to predict, it would be necessary to increase the value of the Fund to cover these potential liabilities. In the current financial climate, it is prudent to continue to insure externally for those major/ catastrophic risks that the Council may not be able to meet should they occur.

4. Consultation

4.1. Consultation for this tender exercise will take place and the report will be presented to the relevant boards and Cabinet approval will be sought.

5. Legal Implications

Implications completed by: Dr Paul Feild, Senior Governance Solicitor

5.1. This report is seeking approval to award the provision of insurance services, in anticipation of the expiry of the existing contract on 30 June 2020. The Council has power under section 1 of the Localism Act 2011 to enter into contracts for the provision of insurance cover to protect its assets, liabilities and risks. Furthermore, as a ‘Best Value’ authority for the purpose of the Local Government Act 1999, there is a duty to secure the best value for the authority. The proposed strategy option set out in this report is a sound methodology for achieving the objective of covering the potential cost of claims against the Council or protection of its assets and interests as required.

5.2. Under the Public Contracts Regulations 2015, insurance services are classified as public service contracts and subject to the EU public procurement regime. The calculation for the gross value of the business is based on the cost of the premiums. As the total value of the contract is above the EU threshold for services (currently £181,302), a full EU competitive tendering process will be required.

5.3. Regarding leaseholders insurance cover, it is anticipated that the cost to the Council of providing insurance cover in relation to leasehold property under the proposed contract, will be recovered from leaseholders via Service Charges payable by leaseholders.

5.4. Under Section 20 of the Landlord and Tenant Act 1985, a notice of the intention to re-tender the contract must be given to leaseholders and consultation must be carried out with leaseholders in accordance with the Landlord and Tenant Act 1985 prior to award of the contract. This is imperative; otherwise the full cost of provision of the insurance cover will not be legally recoverable from leaseholders.

6. Procurement Implications

Implications completed by: Francis Parker – Senior Procurement manager

6.1. The recommended approach is likely to yield the best value for money for the Council.

6.2. An Open tender will be compliant with the Councils contract rules and the PCR2015.

6.3. The other options listed are not as suitable as the recommended route.

7. Financial Implications

Implications completed by: Katherine Heffernan, Group Manager – Finance

7.1. The cost of the current Insurance contract is £1.2m per year. The contract was last let as a 3+2 contract in 2017. Although the Council can extend the contract for up to another two years there is a risk that the cost of some or all elements of the policy may increase. In these circumstances carrying out a full open market tender is the appropriate cause of action to ensure that the Council is achieving the best possible value for money.

7.2. If the tender exercise does result in an increased cost for the Council then this will need to be met from the cost inflation provision within the MTFS. There is sufficient provision to cover any likely increases. Increases in Leaseholder’s insurance will be passed through to the Leaseholders but the Council still has a duty to obtain value for money.

7.3. The tender will be run by AJG as part of their Insurance brokerage contract, supported by the Insurance team from within existing resources and by Elevate on a chargeable basis. The charge is estimated to be in the region of £13k to £50k depending on the complexity of the exercise although it is more likely to be at the lower end of this range. This cost will be met from within the budget of the Council's Finance service.

8. Other Implications

8.1. **Risk Management -** Insurance is a mechanism for transferring risks to another (the insurer) for a consideration (premium). The broad principal of insurance is that the premiums collected from many policyholders pays for the claims of a few.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None