

CABINET

16 March 2021

Title: Contract for the Provision of Council Insurance Cover	
Report of the Cabinet Member for Finance, Performance and Core Services	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
Report Author: Christopher Martin, Head of Assurance	Contact Details: Tel: 020 8227 2174 E-mail: Christopher.Martin@lbbd.gov.uk
Accountable Director: Philip Gregory, Finance Director	
Accountable Strategic Leadership Director: Claire Symonds, Acting Chief Executive	
Summary	
<p>The Council's existing main insurance contracts are due to expire on 30 June 2022. Authority is being sought to extend the end date of this contract to 31 March 2023 so that it falls in line with the Council's accounting period and to undertake a procurement exercise to procure new contracts thereafter.</p> <p>The new contracts awarded will be for a period of 3+2 years commencing 1 April 2023. 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 £7.3m.</p>	
Recommendation(s)	
<p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree the extension of existing insurance contracts due to expire on 30 June 2022, listed in paragraph 1.4 of the report, to 31 March 2023 for the reasons set out in the report;(ii) Agree that the Council proceeds with the procurement of new insurance contracts, to commence from 1 April 2023, in accordance with the strategy set out in the report; and(iii) Authorise the Finance Director, 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 contract(s) and all other necessary or ancillary agreements with the successful bidder(s), in accordance with the strategy set out in the report.	

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 30th June 2022. 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 29th September 2023 and is therefore not currently under consideration. A summary of the current main insurance arrangements are detailed in paragraphs 1.4 and 1.5 below.
- 1.3. The Corporate main 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	Deductible	2020/21 Premium Cost
Property	AIG	£250,000	£365,378
Liability & Claims Management	QBE	£250,000	£357,768
Officials Indemnity	QBE	£250,000	£60,335
Computers, Contract Works, PI & Medical Malpractice	Various	Various	£21,786
Fidelity Guarantee	Zurich Municipal	£10,000	£16,922
Engineering & Inspection	Zurich Municipal	£100	£116,153
Motor	Zurich Municipal	£160,000	£86,860
Personal Accident & Travel	Zurich Municipal	£Nil	£25,620
Commercial Properties	Zurich Municipal	Various	£383,354
School Journey	Zurich Municipal	Various	£19,635
TOTAL			£1,453,811

- 1.5. The current 'insurance year' does not fall in line with the Council's financial year. This means that the costs for insurance at renewal in July currently need to be split between financial years, allocating 9/12 of the costs to the prevailing year and 3/12 to the next year across all appropriate cost centres, services and third parties. The total cost of insurance premiums are also therefore not known by budgetholders until some time into the year which makes accurate forecasting of costs more difficult. Bringing the insurance premiums in line with the financial year would eliminate the uncertainty and eradicate the need to split costs between years.

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. The cost of the broker's work is subject to a separate procurement exercise.
- 2.5. The aggregate annual value of the contracts to be tendered is currently in the region of £1.45m. The proposed procurement is therefore estimated to exceed the 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 Public Procurement Regulations 2015.
- 2.6. The price quality ratio upon which contracts will be awarded will be 65% price, 25% quality and 10% social value. 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. The process appears more protracted than normally necessary as time has been built in to undertake a procurement process sooner in the event that the requested extension is not granted. A timetable for this process is set-out below:

Cabinet approval	March 2021
Advertise and send out tender application packs	June 2022
Tender submissions to be returned	September 2022
Tender evaluations and clarifications	December 2022
Approval and award of contract	February 2023
Start of contract delivery	1 st April 2023

2.8. The Council's approach to social value asks major contractors to contribute to the achievement of the Borough Manifesto goals and targets. The aim of this policy is to ensure that the Council maximises the social, economic, and environmental wellbeing that it delivers through its expenditure. The policy also ensures that the Council is aligned to the requirements of the Public Services (Social Value Act) 2012.

2.9. Bidders will be expected to demonstrate how they can add value to the work of the Council in line with the Social Value Framework and will be assessed accordingly.

3. Options Appraisal

3.1. There were essentially 4 alternative options to the proposed strategy available to address the Council's insurance requirements from 1st April 2023:

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

3.2. **A - 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.

3.3. 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.

3.4. **B - 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.

- 3.5. 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 April 2023; although it is unclear at this stage exactly which risks that proposal would address and the terms of engagement.
- 3.6. 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.
- 3.7. 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.
- 3.8. 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.
- 3.9. **C - 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.
- 3.10. 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.
- 3.11. 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. Waiver

- 4.1. Not Applicable

5. Consultation

- 5.1. The proposals in this report were considered and endorsed by the Council's Assurance Group on 11 February 2021 and the Procurement Board on 22 February 2021.

6. Legal Implications

Implications completed by: Dr Paul Feild, Senior Governance Solicitor

- 6.1. The proposals in this report are two-fold firstly that the existing insurance contracts be extended by a period of 8 months to align the period of insurance cover with that of the Council's accounting years and secondly that the Council's insurance business be subject to a competitive tendering in accordance with the Council's Contract Rules.
- 6.2. In all the circumstances the proposed extension is a reasonable response enabling there be the time available to remedy the timing disparity and the tendering process will enable a demonstrable commitment to securing value for money which is a prerequisite in accordance with the Council's best values duty placed on it by the Local Government Act 1999.

7. Procurement Implications

Implications completed by: Francis Parker – Senior Procurement manager

- 7.1. The recommended approach is likely to yield the best value for money for the Council.
- 7.2. An Open tender will be compliant with the Council's contract rules and the PCR2015.
- 7.3. The other options listed are not as suitable as the recommended route.

8. Financial Implications

Implications completed by: Katherine Heffernan, Head of Service Finance

- 8.1. The cost of the current Insurance contract is £1.45m per year. The contract was last let as a 3+2 contract in 2017.
- 8.2. 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.
- 8.3. The tender will be run by AJG as part of their Insurance brokerage contract, supported by the Insurance team from within existing resources. 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.

9. Other Implications

- 9.1. **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.