

CABINET

20 June 2023

Title: Procurement of Contract for the Provision of Leaseholder Insurance	
Report of the Cabinet Member for Finance, Growth and Core Services	
Open Report	For Decision
Wards Affected: None	Key Decision: No
Report Author: Christopher Martin, Head of Assurance	Contact Details: Tel: 020 8227 2174 E-mail: Christopher.Martin@lbbd.gov.uk
Accountable Executive Team Director: Philip Gregory - Strategic Director, Finance & Investments	
Summary: <p>The Council's Leaseholder insurance contract was due to expire on 29 September 2025. Whilst we are only one year into that agreement, the current insurer Avid have advised the Council that they have lost their re-insurance capacity provider and are unable to provide renewal terms beyond 29 September 2023.</p> <p>The proposed new contract will be for a period of 3+2 years commencing 30th September 2023. Total expenditure in this area over the potential five-year period will be approximately £10m and recharged in full to leaseholders.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree that the Council proceeds with the procurement of a contract for leaseholder insurance in accordance with the strategy set out in the report; and(ii) Authorise the Strategic Director, Finance and Investment, in consultation with the Cabinet Member for Finance, Growth and Core Services and the Chief Legal Officer, to conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements to fully implement and effect the proposals.	
Reason(s) <p>To assist the Council in ensuring that:</p> <ul style="list-style-type: none">• Residents are safe, protected, and supported at their most vulnerable;• Residents live in good housing and avoid becoming homeless. <p>It will also assist in providing value for money and strengthening risk management.</p>	

1. Introduction and Background

- 1.1 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. Avid provide this cover to the Council's 3,500 leaseholders at a cost of £1.35m in 2022/23. The current contract expiry is 29 September 2025.
- 1.2 In May 2023, Avid confirmed to the Council's appointed broker, Gallagher, that they have lost their re-insurance capacity provider and are unable to provide renewal terms beyond the current year, ending on 29 September 2023.

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured

- 2.1.1 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, Gallagher, will manage the tender process with support from the Corporate Procurement and Insurance teams. Gallagher will also work to warm the market in order to generate as many bids as possible.
- 2.1.2 The position with regards to the leaseholder insurance market is complex. The cost of reinsurance (the insurer's insurer who help with catastrophe losses) has significantly increased over the last two years and is in what is referred to as a 'hard market'. Those increased reinsurance costs are passed down to the policyholder. London arguably has the greatest concentration of leaseholders in the UK, particularly with significant numbers of tower blocks which creates a greater catastrophe exposure for insurers. Insurers are increasingly focussing on the amount of assets they insure in any one geography and de-risking themselves where concentration is too high and/or increasing pricing accordingly.
- 2.1.3 Significant numbers of low-level claims plus catastrophe claims are pushing up costs. The Authority is required by contract to provide the insurance but has limited capacity to influence the risk. Those properties with limited preventative maintenance can cause significant burst water pipe claims which are often not discovered for several days. These attrition claims particularly for tower blocks push up minimum pricing. New entrants have reviewed this and decided the current level of pricing is uneconomic.
- 2.1.4 This product is designed to mimic products provided by the personal insurance market for Freeholders, but leasehold right to buy insurance has not kept pace with the personal insurance market with Authority insurances, in some cases, having no excess at all or very low-level excesses which wouldn't generally be available to freeholders. This allows a policyholder to claim for the smallest level of damage creating a disproportionate number of claims and significantly higher administration costs all of which have to be recouped in insurance premiums.

- 2.1.5 The successful insurer will provide buildings insurance for residential leasehold properties on behalf of Right To Buy (RTB) and residential leaseholders, including shared owners.
- 2.2 Estimated Contract Value, including the value of any uplift or extension period**
- 2.2.1 The annual value of the contract to be tendered is anticipated to be in the region of £2m per annum giving a contract value over the 3+2 years period of about £11m.
- 2.3 Duration of the contract, including any options for extension**
- 2.3.1 Three years with option to extend for a further two years at the discretion of the Council.
- 2.4 Is the contract subject to (a) the Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?**
- 2.4.1 Yes. The value exceeds the UK Threshold for services.
- 2.5 Recommended procurement procedure and reasons for the recommendation**
- 2.5.1 A full open tender will be carried out and advertised on Find a Tender, Jaggaer/Bravo (e-tendering), Contracts Finder and the Council's website. The tender will be published via the Jaggaer/Bravo Solution procurement portal.
- 2.5.2 The procurement is required to be let under an open procedure. The open procedure will allow for the maximum number of suppliers to respond including any local suppliers capable of delivering the service.
- 2.6 The contract delivery methodology and documentation to be adopted**
- 2.6.1 The Contract will be let using the Council's standard Terms and Conditions for Services.
- 2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract**
- 2.7.1 The Council must provide buildings insurance for residential leasehold properties on behalf of Right To Buy (RTB) and residential leaseholders, including shared owners. This procurement delivers on that responsibility. Because of the volatility of the market there are no savings or efficiencies anticipated.
- 2.8 Criteria against which the tenderers are to be selected and contract is to be awarded**
- 2.8.1 The price quality ratio upon which contracts will be awarded will be 65% price, 25% quality and 10% social value.

2.9 How the procurement will address and implement the Council's Social Value policy

2.9.1 The Social Value toolkit will be published as part of the tender documentation pack. A delivery plan (what) and method statement (how) question relating to social value will hold 10% of the overall evaluation.

2.10 London Living Wage (LLW)

2.10.1 Payment of London Living Wage will be required.

2.11 How the Procurement will impact/support the Net Zero Carbon Target and Sustainability

2.11.1 Part of the evaluation criteria will request details on the net zero carbon position of the bidders, and if not net zero neutral, how the bidder will propose to seek to become a carbon neutral supplier.

3. Options Appraisal

3.1 The option of the Council insuring the leasehold property insurance internally is the only other viable option at this stage. Due to the time critical nature of managing the hundreds of claims each year, the Council would require a claims handling agent. Due to the nature of the type of claims made on this policy, there would need to be a 24/7 helpline to assist leaseholders in the event of an emergency/major loss. There would also be an additional burden on the Council's insurance team. This option was rejected due to the associated time and cost pressures.

3.2 Given the difficulties in the market and having seen other local authorities go through a similar process if the procurement does not provide any bids then the Council would look into the other options/processes the PCR 2015 can offer in order for the Council to meet its need.

4. Waiver

4.1 Not applicable.

5. Consultation

5.1 As the proposed contract is proposed to last more than 12 months, this would be considered a qualifying long-term agreement. In this circumstance the Council will be required to consult where the amount payable by any one contributing leaseholder under the agreement in any accounting period exceeds £100.

5.2 There are usually three stages to the consultation for qualifying long-term agreement: (i) Pre-tender stage where we send a Notice of intention; (ii) Tender stage – Preparation of landlord's proposals and (iii) Award of contract Notification of the award of contract. The first two stages require a 30-day consultation period and the last stage requires the Council to provide a 21-day period for leaseholders to respond. If consultation is not undertaken, the landlord may not be able to recover more than £100 per leaseholder in any accounting period towards the costs under the agreement.

6. Corporate Procurement

Implications completed by: Euan Beales, Head of Procurement

- 6.1 The Council's Contract Rules require all spend over the Gold threshold to be procured in the open market and is subject to the UK threshold for services. The proposed contract spend exceeds this threshold so must comply fully with PCR2015.
- 6.2 The open process being proposed, and the evaluation criteria methodology including Social Value and London Living Wage meets the requirements of the legislation and has the best opportunity to provide a beneficial bid for the Council.
- 6.3 In the event that the procurement yields a non-response from the procurement process due to the volatility and size of the market, the Council may need to conduct a negotiated process to ensure cover is maintained.
- 6.4 Based on the information contained in the report the open process has the best chance of yielding a positive outcome in a challenging market.

7. Financial Implications

Implications completed by: Katherine Heffernan, Head of Service Finance

- 7.1 The cost of the current Insurance contract is likely to be about £2m per year for around 3,500 properties. As set out above, this is a specialist insurance and is currently a hard market. The cost is significantly higher than general house insurance for private homeowners. It is therefore essential that a full open market tender is carried out to ensure and demonstrate that the Council is achieving the best value for money possible in the current circumstances.
- 7.2 Increases in leaseholder insurance will be passed through to the leaseholders but the Council still has a duty to obtain value for money. The full consultation process set out in section 5 must be carried out correctly otherwise the Council will not be able to pass on the cost and could make a loss on the contract. The timescales are very tight, so careful planning and management is required.
- 7.3 As costs to leaseholders increase there is a risk that some leaseholders may not be able to make the payment thus increasing the level of debt. Leaseholder debt is generally regarded as reasonably secure because leaseholders tend on average to be better off than tenants and because in the final instance it can be recovered when a property is sold if there are robust processes to ensure this takes place. However, if the level of leaseholder debt increases then it does increase the Council's cash flow risks.
- 7.4 The Council does however need to ensure that there are adequate arrangements to insure leaseholder properties and an external contract acquired through an open market tender has been assessed as carrying fewer risks than the alternative option of self-insurance.

8. Legal Implications

Implications completed by: Kayleigh Eaton, Principal Contracts & Procurement Solicitor

- 8.1 This report is seeking approval to tender the Council's leaseholder insurance requirement. The total cost across the potential 5 years is approximately £11m.
- 8.2 The value of the contract is in excess of the service/supply threshold under the Public Contracts Regulations 2015 (PCR 2015) and therefore a competitive tendering process is required.
- 8.3 This report sets out that it intends to procure the contract using the Open procedure which is compliant with PCR 2015. The opportunity will be advertised in Find a Tender as well as Bravo, Contracts Finder and the council's website. The Council's insurance broker will also work to generate interest in the tender across the market in light of the difficulties the insurance market in this field faces.
- 8.4 Rule 6.5 (a) of the Council's Contract Rules requires that all procurements of contracts above £500,000 in value must be submitted to Cabinet/HWB for approval.
- 8.5 In respect of leaseholders of the Council there is a requirement to consult them where the Council enters into a long-term qualifying agreement for the provision of services under the provisions of s20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003. This agreement will qualify as it is intended to be awarded for a duration of more than 12 months. If the Council does not consult it cannot recover more than £100 per leaseholder for the provision of the service.

9. Other Implications

- 9.1 **Risk and 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.
- 9.2 **Corporate Policy and Equality Impact** – As a Local Authority, LBBD are mandated to provide the appropriate level of buildings insurance for residential leaseholders. There are no known or perceived disproportionate impacts on residents with protected characteristics, and as such, an Equality Impact Assessment is not required at this time.
- 9.3 **Property / Asset Issues** – This policy will provide cover for buildings for which the Council retains a freehold interest.
- 9.4 **Business Continuity / Disaster Recovery** - Suppliers will be asked to submit their own Business Continuity Plans when bidding.

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

List of appendices: None