


<b>London Borough of Hammersmith &amp; Fulham</b>  <b>CABINET</b>  <b>10 SEPTEMBER 2018</b>		
<b>INSURANCE TENDER STRATEGY FOR 2019-24</b>		
<b>Cabinet Member for Finance and Commercial Services - Councillor Max Schmid</b>		
<b>Open Report</b>		
<b>Classification: For decision</b> <b>Key Decision: Yes</b>		
<b>Consultation:</b> <b>Policy &amp; Strategy, Legal, Finance, Business, Commercial, IT, Risk Management</b>		
<b>Wards Affected:</b> All		
<b>Accountable Director:</b> David Hughes, Director of Audit, Fraud, Risk and Insurance		
<b>Report Author:</b> Neil Walker, Assistant Head of Insurance	<b>Contact Details:</b> Tel: 07739 316319 E-mail: <a href="mailto:neil.walker@rbkc.gov.uk">neil.walker@rbkc.gov.uk</a>	

## **1 EXECUTIVE SUMMARY**

- 1.1 This report sets out the proposed strategy upon which sovereign insurance contracts for Leaseholder, Property, Combined Liability, Directors' & Officers' Liability and Engineering Inspection will be procured for contract commencement dates of 1<sup>st</sup> April 2019.
- 1.2 The strategy will entail a detailed tender process in conjunction with the Council's retained insurance advisors and with close engagement with the LBHF procurement function to ensure the Council's requirements are fully incorporated, ensuring that each of the councils is priced according to its own risk profile but benefits from bulk discounts sought from tenderers and efficiencies arising from sharing operational arrangements provided by the shared Insurance service.
- 1.3 The Council is committed to protecting the safety and wellbeing of its residents, in line with the Council's vision to ensure it obtains best value for residents by being ruthlessly financially efficient. The over-arching aims of this proposed tender are to put in place appropriate insurance cover for the Council and its residents, achieve financial efficiencies in the process of arranging the cover and to carry out appropriate section 20 consultation and liaison with the Council's leaseholders to ensure they are appropriately insured and recharged.

## 2 RECOMMENDATIONS

- 2.1 To approve a waiver to Contract Standing Orders 7 – 10 and 11 – 16 concerning the conduct of the tendering process, on the basis that the process will be conducted in accordance with the EU public procurement rules and otherwise the requirements of the Contract Standing Orders of the RB of Kensington & Chelsea as lead borough for the procurement will apply, on the basis that that this is in the overall interests of the Council (as provided for within Contract Standing Order 3) in relation to the following four contracts:
- Leaseholder buildings insurance.
  - Property insurance.
  - Combined Liability insurance.
  - Directors' & Officer's Liability insurance.
- 2.2 To approve the proposed procurement strategy for tendering the Council's insurance requirements and allied engineering inspection services set out in the report.
- 2.3 To approve the inviting of tenders on a collaborative basis for the following LBHF insurance requirements:
- Leaseholder buildings insurance.
  - Property insurance.
  - Combined Liability insurance.
  - Directors' & Officer's Liability insurance.
- 2.4 To approve a delegation to the Strategic Director of Finance and Governance in consultation with the Cabinet Member for Finance and Commercial Services to approve the award of the contracts listed in paragraph 2.3 above.
- 2.5 To approve a waiver of the requirements of Contract Standing Order 19 concerning the format of the contract documents and the requirement for the contract to be executed as a deed, on the basis that there are circumstances which are genuinely exceptional (as provided for within Contract Standing Order 3) as further explained in paragraph 4.11 of the report.
- 2.6 To approve a delegation to the Strategic Director of Finance and Governance to waive the Contract Standing Orders in order that a direct award of contract can be awarded for the Engineering Inspection contract for a further year with the existing supplier.
- 2.7 To approve a delegation to the Strategic Director of Finance and Governance, in consultation with the Cabinet Member for Finance and Commercial Services, to award a contract for the Engineering Inspection contract for a period of one year from 1 April 2019.

### **3 REASONS FOR DECISION**

- 3.1 At last renewal the Leaseholder insurers, Ocaso, increased the premium by 49.92% (including Insurance Premium Tax) for 2018/19. This broke the terms of the Long-Term Agreement (LTA) in place for the current contract, which runs from 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2021, which means that the Council can only choose to either continue with the current arrangement with the prospect of further increases over the term of the contract or to re-tender the contract. This premium is funded by the Housing Revenue Account (HRA) and then passed on in full to the Council's leaseholders. The Council now needs to re-tender the policy: by continuing with this policy arrangement into 2019/20, while the LTA is broken, there is a risk that further increases in premiums will be imposed by the current provider which would then have to be passed on to leaseholders and the potential challenge as to why we have not retested the market to ensure best value.
- 3.2 At last renewal the Property and Combined Liability insurers, Protector, applied a 25% rate increase to the Liability policy for 2018/19. This broke the terms of the LTA in place for the current contract, which runs from 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2022, which means that the Council can only choose to either continue with the current arrangement with the prospect of further increases over the term of the contract or to re-tender the contract. The Council recently took the decision to restructure the Liability cover and now buys Liability excess layers with other insurers from £25m-£175m. The Council has also increased its housing "sums insured" figures, further increasing the premium. These premiums are funded by the General Fund and internally recharged. Bearing in mind these premium increases, the Council now has the opportunity to re-tender these policies to mitigate the risk of further premiums increases and to potentially restructure its cover to ensure best value and consider options such as including the Leasehold building cover in the general Property cover.
- 3.3 The Directors' & Officers' Liability premium has increased from £11,000 to £35,000 due to new entities such as LBHF Family Support Services Ltd being added to the policy and the external Directors' & Officers' market having hardened due to changing market conditions, particularly in the UK construction sector, with the Grenfell Tower fire and the Carillion collapse particular factors. Tendering this policy will ensure best value is being obtained.
- 3.4 The Engineering Inspection contract has been with the existing supplier, Bureau Veritas, for several years and is due to be re-tendered. This contract delivers statutory inspections to Council assets, including lifts, with continuity an important consideration. There is a financial and strategic case to approve the direct award of a one-year contract from 1 April 2019, subject to receipt of acceptable renewal terms through negotiation (likely to be less than a 5% increase and related only to salaries and inflation). Financially, a tender is unlikely to deliver cost savings because the nature of the contract is an inspection contract and the main cost is the inspecting employees. The cost of this contract has been stable for several years and increased by only 4.4% for 2018/19. Strategically, there is a considerable risk in moving contracts and successfully transferring the day-to-day inspection practices and location of assets for inspection across. Additionally, bidders may need to employ staff to resource a new contract after appointment (very few providers have spare capacity) meaning disruption in the first few months as the contract beds down. Previously, only two bids were received and the difference in costs was significant.

## 4 PROPOSAL AND ISSUES

- 4.1 The Council's insurance operation is discharged via a shared Insurance Service. The service delivery is fully integrated, with employees delivering service response to all three councils based on specialisation.
- 4.2 In view of the potential for catastrophic financial loss to Council budgets arising from damage to assets or the need to meet compensation awards for injury to the public or employees it is prudent to cap the financial exposure from any one event or occurrence by transferring some of this financial risk through the purchase of insurance from suitably regulated and qualifying providers.
- 4.3 The current providers of the insurances under consideration are:
- Leaseholder – Ocaso S. A.
  - Property – Protector Insurance.
  - Combined Liability – Protector Insurance & insurers on the Lloyd's Market.
  - Directors' & Officers' Liability – Chubb European Group Plc & insurers on the Lloyd's Market.
  - Engineering Inspection – Bureau Veritas.
- 4.4 Expenditure on the LBHF relevant insurance premiums for 2018/19, including 12% Insurance Premium Tax (with the exception of Engineering Inspection, which is subject to VAT as a service), is £2.057m, as follows:
- |                                    |             |
|------------------------------------|-------------|
| • Leaseholder                      | £1,286,724. |
| • Property                         | £333,635.   |
| • Combined Liability               | £327,860.   |
| • Directors' & Officers' Liability | £35,000.    |
| • Engineering Inspection           | £73,982.    |
- 4.5 The level of insurance premiums is driven by a number of factors, the most prominent being the sums insured and claims experience of the Council; the policy deductible (excess); global re-insurance rates and individual supplier experience and risk appetite or capacity.
- 4.6 Current levels of self-insurance (the amount below the policy excess where the Council covers the cost of the claim) were set based on claims analysis and sovereign risk appetite assessed during the last tender process and tender options will once again explore the cost versus benefit of higher deductibles: it follows that the higher the policy excess (self-insurance), the lower the premium but the higher the retained risk.
- 4.7 The shared Insurance service has reduced the Council's financial provision for self-funding claims from in excess of £3.5m to less than £2m over the past 5 years. The Council paid out circa £831,000 in self-insurance payments in 2017/18. Claims below the policy excess are paid directly from an Insurance fund controlled by the Council, rather than by the insurer.
- 4.8 The available market for placement of local authority insurances is traditionally limited; however, there have been recent entrants to the market and the expectation is to

receive four or more valid quotations for each contract tendered, with the exception of Engineering Inspection (this is a specialist market and it is possible as few as two quotations would be received).

- 4.9 The Public Contract Regulations 2015 (PCR), in accordance with the 2014 EU Procurement Directives, will apply to the tender process in view of the likely award value of the final contract(s). In respect of the stand-alone procurement process for leasehold buildings insurance, this will be undertaken in accordance with the Open Procedure although for the other insurances this will be via the Competitive Procedure with Negotiation both of which require a Contract Notice to be published in the Official Journal of the European Union. A notice will also be published on Contracts Finder. The procurement will be overseen by the shared Insurance service with appropriate engagement and support from each councils' procurement service. The procurement exercise will take place using the e-procurement portal, CapitalEsourcing, which will ensure that the procurement directive requirements are met.
- 4.10 The Invitation to Tender (ITT) technical specification will be drawn up by the Assistant Head of Insurance Service supported by the retained insurance advisors JLT Speciality Limited, with close engagement with the LBHF procurement function to ensure the Council's requirements are fully incorporated. The indicative, high-level, tender timetable is as follows:

Political Cabinet	9 <sup>th</sup> July 2018
1 <sup>st</sup> Leaseholder Consultation (30 days)	July/August 2018
Publish draft ITT and Supplier Questionnaire for expressions of interest	August 2018
Cabinet (approval of Procurement Strategy)	10 <sup>th</sup> September 2018
Invitation To Tender released to the market	October 2018
Initial bid deadline	November 2018
Evaluate Tenders	December 2018
2 <sup>nd</sup> Leaseholder Consultation (30 days)	January/ February 2019
Award Contract	March 2019
Cover Incepted / Contract Start	1 <sup>st</sup> April 2019

- 4.11 Insurance is classified as a special contract in Law and therefore insurance policy documentation is the basis of contract combined with the ITT specification and bidder response.
- 4.12 The proposed contract length is five years.
- 4.13 Many of the likely bidders have registered offices or operations based in the financial services sector of the City of London but bidding will be open to any qualifying supplier authorised to underwrite insurance in the UK and of suitable financial standing. To ensure that they meet the minimum standards, bidders will be required to evidence they are authorised to underwrite insurance business in the UK and must be at least "A"-rated by Standard and Poors or equivalent agency and prepared to produce: -
- A copy of their annual reports and accounts for the last 3 years;

- The name and address of their bankers;
- Details of last 3 years of underwriting experience for the classes of business under consideration.

Given the sensitive nature of the three councils' claims information only those bidders who have passed qualification will be supplied with full details of the claims.

- 4.14 The Quality Award Criteria will be based on the technical specification, the technical specification will include both policy coverage and claims handling requirements. Evaluation of bidders' responses to the award criteria will be carried out in accordance with the published marking scheme.

The evaluation and ITT bidding will be subject to the following structure:

- Leaseholder buildings as a separate tender
- Combined tender
  - Lot 1 – Property (with option to include Leaseholder cover).
  - Lot 2 – Combined Liability.
  - Lot 3 – Directors' & Officers' Liability.

- 4.15 Engineering Inspection cover, if re-tendered, would have to be administered as a separate tender. Due to the specialist nature of this contract, it would attract specialist bidders who are unlikely to quote for the above insurance covers.

- 4.16 For Leaseholder cover, bidders will be required to submit the price per lot individually scheduled for each of the three boroughs to ensure that the correct premium is charged to LBHF leaseholders and to demonstrate sovereign best value has been achieved for leaseholders. For Liability and Property, price evaluation will be based on the total price per lot to provide the cover for all three boroughs, with each borough being priced according to its own risk profile but benefitting from bulk discounts sought from tenderers and efficiencies arising from sharing operational arrangements provided by the shared Insurance service. There will be the important option to offer a multi-lot discount to secure multiple lots and options for different policy excesses for each policy and each council, hence the recommendation to use the Competitive Procedure with Negotiation.

- 4.17 The contracts will be awarded on the basis of the most economically advantageous terms to the Council (or in the case of Combined Liability and Property, across all three boroughs) in accordance with the evaluation basis specified in the ITT in detail, but in summary it is anticipated it will be evaluated as follows:

Leaseholder

- Price for Insurance cover – 60% - Maximum points will be awarded to the lowest priced bidder taking into account any Long Term Agreement discounts. A formula will be used to adjust the scores of all remaining bidders to reflect the percentage difference in prices.
- Assessment of Policy Cover – 10% - Marks will be awarded for insurers able to offer cover as per the specification. Reductions will be made for areas where the

insurer is unable to meet the full requirements of the specification and / or onerous policy conditions and exclusions are applicable.

- Claims Service – 10% - This will be evaluated against the criteria shown within the Tender Document. Scores will be adjusted to take into account the difference between the services offered and those requested together with the quality of claims and the claims management data available.
- Added Value – 20%. This will include items that improve the quality of the service/product requested. Additionally, the Council has responsibilities under the 2012 Public Services (Social Value) Act to ensure compliance with its provisions. Those commissioning services must comply with the Council's Social Value Policy outcomes that seek to deliver:
  - More opportunities for local micro-businesses, local small and medium sized enterprises and local third sector organisations; and/or
  - More employment and training opportunities for local residents.

Examples of social value sought might include the following:

- skills development to prepare school leavers for employment;
- entrepreneur development/encouragement sessions;

Property/Combined Liability/Directors' & Officers' Liability

- Price 50% – 5-point deduction for each 1% variance from lowest bidder price.
- Technical specification 35% - evaluated and documented deductions for minor non-compliance with specified requirements and bid rejection for major non-compliance. Examples of major non-compliance being failure to supply the fire insurance peril or to agree to the minimum requirement to allow self-handling of all claims up to the policy excess.
- Added value/Innovation 15% – evaluated and documented additional points for exceeding specification minimums, offering additional services or covers and providing social value (as per above). ITT documentation will provide guidance to bidders.

The above evaluation basis is the same as used at the last successful and compliant tender and contract award process.

## **5 ANALYSIS AND OPTIONS**

- 5.1 Re-procurement of these contracts (with the exception of the Engineering Inspection contract) through a shared procurement run by the shared Insurance service is not the only option, as the existing contracts could be renewed for a further year. However, the significant premium increases recently incurred, the changes to the Council's individual risk financing requirements and the wider market changes all lead to the proposed re-tender being timely, fiduciary responsible and most likely to deliver the best financial outcomes for both the Council (and therefore the tax-payer) and its leaseholders, at the very least with the expectation of mitigating the risk of significant further premium increases.
- 5.2 The numerous and considerable benefits of taking a joint approach to insurance tendering and claims handling and having one insurance provider for all three authorities per policy have been clearly evidenced in the 2012-18 period and are summarised below:

- 5.2.1 As a result of previous tenders, LBHF have previously secured a 5-10% discount by procuring policies through exercises undertaken by the shared Insurance Service. The proposed tender exercise will involve sovereign policies being procured for LBHF, with tenderers able to bid for one or more lots. It is expected that tenderers will bid for all three councils involved in the tender as the economies of scale on offer are mutually beneficial to the insurer and the insured. It is possible the Council could secure discounts of up to 15% by way of a multi-authority discount under the shared tenders for 5 year contracts, while each council will be priced on its own risk profile, and that the procurement strategy undertaken by the shared Insurance Service would again deliver savings to the Council, with the last major tender having delivered a total saving of circa £453,000 on the Property, Liability, Terrorism, Fidelity Guarantee/Crime and Personal Accident & Travel policies.
- 5.2.2 The cost of administration and handling claims using the shared Insurance service would continue to be managed within existing budget provision. In addition, LBHF would continue to benefit from claims handling performance delivered by the shared Insurance service which has seen the value of self-insured claims reducing significantly year on year. Moving away from the current arrangements would have significant cost implications which are set out in 5.5 and 5.6.
- 5.2.3 Ad hoc insurance costs such as taking external legal advice and opinion can be shared by the three councils when the same policy conditions are in place for all three.
- 5.2.4 Insurance coverage positions can be agreed with one insurer, which then apply to all three authorities, whereas they would have to be negotiated separately with different insurance providers, improving the efficiency of the shared service arrangement and keeping costs within budget, as well as obtaining the best terms for each Council.
- 5.2.5 There is greater power in negotiating for three councils collectively, whether when negotiating premium terms, insurance coverage issues or otherwise. It is very important to note there is no question under the approach proposed of one authority subsidising either or both of the others. Each authority has and will continue to have its own policy and premium based on its individual risk exposures and claims experience.
- 5.2.6 Administration savings for insurers and the retained insurance advisors and a higher level of service received from both by virtue of them being able to take a shared approach placing policy cover, providing policy documentation and with all other aspects of the client and supplier relationship. This leads to benefits through premium charges and broker fees incurred by each council.
- 5.2.7 During the last main tender, the concern that the tender that was best collectively might not have been the best price individually (although the correct price for the risk from that insurer) was addressed. It is important to recognise all prices are quoted on the basis of a bidder winning all three authorities. The price which one authority obtains in this way is unlikely to be achieved through a sovereign tender process. In addition, our brokers do not consider that the number of interested bidders will be reduced by procuring policies for the three councils using the proposed approach.
- 5.2.8 When LBHF entered into the shared Insurance service arrangement in 2012/13 it was perceived by the insurance market as the poorest risk of the three councils and thus benefited from a joint policy procurement with the other two authorities. It is important to note the advice given to LBHF, and accepted, was to not re-tender during the last policy year because the £20m Fire Safety Plus package of housing measures was yet to be fully implemented and, by re-tendering in 2018, this housing improvement



programme can be taken into consideration by prospective insurers in a new procurement exercise.

- 5.3 Regarding the Leaseholder policy, it is possible up to three different bidders could win these contracts. However, a key driver for re-tendering both the Leaseholder and the Property policies is to explore the option of combining the two into one policy cover with a view to maximising discounts. This new method of insuring the leasehold properties has the potential to significantly reduce building insurance premium recharges to leaseholders. Furthermore, the Liability and Property policies will include delegated authority from the insurer to the shared Insurance service to continue to self-handle claims and will be awarded to the highest-scoring bidder for all three. It is important to note that separate prices are still received for the three councils, reflecting their own risk profile, and the evaluation criteria will reserve the right not to award the contract to the lowest bid (ensuring a bid is not accepted that was not in the Council's best interests) and the policies themselves remain sovereign to each council.
- 5.4 It would not be practical to run a tender process which resulted in more than one insurer per policy (Property and Liability) as the shared Insurance service does not have the resources (LBHF budget coverage) to do so. If LBHF does not wish to adopt the proposed procurement approach via the shared insurance service arrangement, it would need to consider the additional cost implications of running a sovereign insurance tender immediately (this would need to happen without delay to re-tender the Leaseholder cover, due to the two-stage consultation process required) for which there is no budget provision.
- 5.5 Prior to the establishment of the shared Insurance service, the previous LBHF Insurance service employed 3 FTE posts, without handling claims in-house. In 2014/15 (the last year before in-house claims handling commenced) claims handling fees paid to insurers were £40,695 plus VAT. As well as saving on the external claims handling cost, the implementation of the shared service enabled the sharing of management costs across the three Councils while ensuring there was sufficient budget to provide appropriate staff coverage to meet LBHF's needs. If a separate tender process were required, LBHF would need to recruit additional resources, including management and staff, with immediate effect to run a successful sovereign insurance service and retain claims handling in-house. In addition, there would be a long lead time required to put this resource in place and then run a separate tender exercise. There is no budget provision available for recruiting additional LBHF staff or for outsourcing claims handling activity.
- 5.6 In addition to the £453,000 premium savings (and excluding the staff, accommodation and ICT savings), the shared Insurance arrangement has delivered estimated claims savings in excess of £1.8m. This has been achieved by bringing claims in house, handling them more efficiently and effectively and thereby reducing the Council's self-funding claims figure from £3.680m (October 2013) to the current (May 2018) figure of £1.863m. Outsourcing the claims handling function would be likely to result in the value of self-funded claims increasing, based on LBHF's previous experience prior to the shared service being introduced.
- 5.7 Beyond not purchasing insurance at all, which would result in unacceptable and uncapped financial exposures to the Council, and would be illegal or unlawful in the case of Employer's Liability insurance, the only other alternative to the current procurement strategy would be for the Council to set up its own captive insurance company (a wholly-owned subsidiary company to the Council), retaining significant

financial exposure in-house, and to approach the re-insurance market direct rather than the current provider market. This strategy has been tested in the past by other Councils with limited success and is not recommended at this time due to the complex feasibility studies and timescales involved.

- 5.8 For the above reasons, our professional recommendation is a collaborative re-tender exercise led by the shared Insurance service to procure the Council's cover from 1<sup>st</sup> April 2019 for Leaseholder, Property, Combined Liability and Directors' & Officers' Liability and to work towards making a one-year direct award to the existing Engineering Inspection contract supplier.

## **6 CONSULTATION**

- 6.1 Stage 1 and Stage 2 consultation and engagement is required with leaseholders in the normal manner, under section 20 of the Landlord & Tenant Act 1985, with this process occurring in July/August 2018 and then again in January/February 2019. Stage 1 outlines the basis of the proposed tender and the various options upon which tenders are being sought and invites engagement and input prior to finalisation of the tender documents. Stage 2 provides the tender results, evaluation and a draft recommendation for contract award and seeks further leaseholder engagement and input prior to finalising recommendations.
- 6.2 The Stage 1 leaseholder consultation gives notice of an intention to tender and requests leaseholder feedback. It is not a commitment to proceed on the basis described and it is therefore possible for the Council to either decide to proceed on an alternative basis and move on to Stage 2 or to not tender at all. However, if the Council decided to not proceed with a Leaseholder tender at all it would need to withdraw the Stage 1 consultation Notice with a letter sent to leaseholders explaining why the tender process was not proceeding.

## **7 EQUALITY IMPLICATIONS**

- 7.1 In compliance with Section 149 of the Equalities Act 2010, the Council has given due regard to the requirements of the Public Sector Equality Duty. It is not anticipated that the re-procurement of these insurance contracts will have any negative impacts on any groups with protected characteristics, under the terms of the Equalities Act 2010.
- 7.2 Implications completed by: Peter Smith, Head of Policy & Strategy, tel. 020 8753 2206.

## **8 LEGAL IMPLICATIONS**

- 8.1 The various insurance contracts described in this report, when aggregated for the full 5-year term, exceed the threshold above which a full tendering exercise is required in accordance with the Public Contracts Regulations 2015 ("the 2015 Regulations"). A five-year contract for the engineering inspection would also exceed the EU threshold for services. As set out in the report, the 2015 Regulations are proposed to be followed using either the open or competitive procedure with negotiation.
- 8.2 Because this will be a collaborative procurement, various waivers of the provisions of Contract Standing Orders are proposed on the basis that the standing orders of the Royal Borough of Kensington & Chelsea will apply, though subject always to following the 2015 Regulations. Contract Standing Order 3 sets out when Cabinet can grant

such a waiver and the permitted grounds for doing so. Here the basis relied upon is that the waiver is in the overall interests of the Council.

8.3 Because of the unusual way in which insurance arrangements are formalised a waiver is also sought in relation to the requirement for the contract to be entered into as a deed, on the basis (again as permitted by Contract Standing Order 3) that the circumstances are genuinely exceptional.

8.4 Implications completed by: Deborah Down, Senior Associate with Sharpe Pritchard LLP on secondment to the Council [dtdown@sharpepritchard.co.uk](mailto:dtdown@sharpepritchard.co.uk)

## **9 FINANCIAL IMPLICATIONS**

9.1 The Council funds general premiums, including Property, Combined Liability, Directors' and Officers' Liability and Engineering inspections. The budget and forecast cost of these premiums is £770,477 in 2018/19.

9.2 The Leaseholder building insurance premium is recharged to the Council's leaseholders and will not directly impact on the Council's budgets. The budget and forecast cost of these premiums is £1,286,724 in 2018/19.

9.3 Given the 50% increase in the Leaseholder premium between 17/18 and 18/19, the breaking of the Long Term Agreement in place for the current contract and the risk of further increases in premiums for the Council's leaseholders, it is planned to re-procure the Leaseholder insurance contract as not testing the market may result in a challenge from Leaseholders. This may ultimately result in the Council being unable to recover relevant buildings insurance costs from Leaseholders.

9.4 Under the previous long term agreement, there was not enough time between the Council becoming aware of the breach of the LTA and the date by which a new policy would have been required for the Council to be able to retender Leaseholder insurance. This is because there is a statutory consultation process with leaseholders that needs to be followed to ensure the insurance costs can be recovered. Therefore, the balance between the risk of a breach of a future LTA and the likely additional cost of locking down the premium costs for the three-year term will need to be considered as part of the tender process.

9.5 Implications completed by Danielle Wragg, Finance Business Partner & Corporate Projects, tel. 020 8753 4287 and Kathleen Corbett, Director for Finance and Resources, tel. 020 8753 3031.

## **10 IMPLICATIONS FOR BUSINESS**

10.1 The proposals within this report will have no detrimental impact on local businesses in the Borough.

10.2 Implications verified by: Albena Karameros, Economic Development Team, tel. 07739 316 957.

## **11 COMMERCIAL IMPLICATIONS**

11.1 This report seeks approval for the proposed strategy of procuring the new contracts for insurance services.

- 11.2 Under the Public Contracts Regulations (PCR) insurance provisions are classified as services. The estimated value of the contract is over the threshold for services, currently set at £181,302. Therefore, the procurement of insurance services is subject to the full rigour of the EU public procurement regime.
- 11.3 The Council's Contracts Standing Orders (CSOs) recommend for a contract of this value 'the use of an existing framework agreement; or Contract Notice to appear in the Official Journal of the European Union, an opportunity listing on the e-tendering system webpage and publication of a Contract Notice in 'Contracts Finder'. The later approach was proposed by conducting an Open Procedure for the procurement of leasehold buildings insurance services and a Competitive Procedure with Negotiation for the procurement of Liability and Property insurance services.
- 11.4 The Council has a duty under the Social Value Act 2012 to consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and how the procurement process can secure that improvement. Therefore, it is recommended that Social Value is considered as part of the awarding criteria in both proposed procurement processes.
- 11.5 Implications completed by Andra Ulianov, Procurement Consultant, tel. 020 8753 2284.

## **12 IT IMPLICATIONS**

- 12.1 There is no impact of the proposals in the report for ICT.
- 12.2 Implications verified by: Quentin Brooks, Service Director, tel. 0208 753 6214.

## **13 RISK MANAGEMENT**

- 13.1 Insurance is a method of transferring risk from one party to another. This could be the risk of damage to an asset (e.g. property insurance) or the risk to others arising from an activity (e.g. liability insurance). External insurance is necessary to provide a higher degree of financial certainty for the Council, which enables it to operate in an environment where risk is always present. Ground up insurance cover, where there is no excess, is not however a financially efficient transaction and the Council has chosen not to follow this route. The terms of risk transfer for the Council are set by a contractual arrangement commonly called the insurance policy. This requires the insurer, in return of a payment from the insured (the premium), to agree to reimburse the insured for losses arising from the consequences of an insured event.
- 13.2 The Council's risk environment internally and externally has changed materially in recent years. It continues to change at an escalating pace with new and emerging Cyber threats, Terrorism and specifically, more demanding regulations, for example the introduction of the General Data Protection Regulations. There is no single solution for protecting the public purse, the Community, Management, and the Council from the liabilities it faces. The best approach is as outlined in the report a combination of strong corporate governance, broad corporate indemnification through insurances and risk control. Evolving risk challenges have informed this report and decision to approach the market.

13.3 Implications verified by: Michael Sloniowski, Risk Manager, tel. 020 8753 2587, mobile 07768 252703.

**14 BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

None