

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Leader of the Council

Date: 01/032023

Subject: Residential Leasehold Buildings Insurance Renewal 2023/24

Report author: Beverly Mills, Assistant Head of Insurance

Responsible Director: David Hughes, Director of Audit, Fraud, Risk and Insurance

SUMMARY

The lease agreement between the Council and residential leaseholders requires the Council, as freeholder, to arrange building insurance to cover the re-instatement value of the leaseholder's asset. The current insurance provider, Avid indicated a renewal increase of 60% due to the claims experience and inflation. As this was deemed unacceptable, we sought alternative quotation from the Council's main insurance programme provider, Protector. However, shortly after providing their renewal terms, Avid advised that their underwriting provider, Accelerant, had made the decision to withdraw their capacity, leaving Avid unable to accept new business or offer renewals beyond 23 March 2023. Their earlier terms are therefore withdrawn.

A quotation was obtained from Protector Insurance, the Council's insurer for the main Property and Liability risks. Due to the dire state of the leasehold insurance market, it was considered preferable to enter into a one-year arrangement and then be in the position in 2024 to re-tender the Council's full insurance programme and also consider any other available options. Additionally, it is hoped the situation will have improved in 12 months, including the re-entrance of further providers to the market. The Council has in place an agreement with Protector to provide Property and Liability insurances.

REASONS FOR URGENCY

The current Leasehold Buildings insurance is due to expire 31/3/2023. Cover must be in place for the period commencing 01 April 2023 or the leaseholders' assets will be uninsured and the Council will be in breach of its legal obligations under the leasehold agreements.

RECOMMENDATIONS

1. To note that Appendix 1 is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. To direct award a contract to Protector for leasehold buildings insurance, including this within the main insurance programme for a period of one year with a £100 excess, effective from 01 April 2023, at a premium of £2,279,800.

Wards Affected: (Give the Wards directly affected, or “None” or “All”) ALL

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	Providing financial protection of leaseholder assets
Creating a compassionate council	The lease arrangement requires the Council as Freeholder to arrange building insurance to cover the reinstatement value of the leaseholder’s asset
Doing things with local residents, not to them	We have secured a quotation with the only insurer now providing cover for local authority leasehold buildings
Being ruthlessly financially efficient	Risk of financial exposure to the Council and Leaseholders if insurance is not in place from renewal 01 April 2023
Taking pride in H&F	Insurance provides financial protection in the event of an insured peril causing damage to a leasehold building
Rising to the challenge of the climate and ecological emergency	Insurance provides protection of leasehold buildings for insured perils including weather related events of flood and storm

Financial Impact

The expenditure of £2.3m for the insurance cover required will be chargeable and fully recoverable from the service charges payable by leaseholders in 2023/24.

Sukvinder Kalsi , Director of Finance, 15/02/2023

Legal Implications

This insurance contract is above EU Thresholds and so the Public Contracts Regulations 2015 (PCRs) will apply.

Under Regulation 32(2)(c) of the PCRs a direct award can be made “..for reasons of extreme urgency brought about by events unforeseeable by the contracting authority...” and it can be argued that this situation applies in this case.

The Council’s Contract Standing Orders (CSOs) will also apply to this contract as a High Value Contract. A waiver of the Competition and Advertising requirements of CSO 19 was obtained on 8 February 2023.

All contract awards over £100,000 must be submitted to the Contracts Assurance Board. The contract can then be awarded by the relevant Cabinet Member.

Where the award report concerns the award of contract in excess of £300,000 in value or the expenditure is otherwise significant, then it is a Key Decision (see Article 12 of the Constitution) and must be submitted to Committee Services for publication on the Council's website. The award decision cannot be implemented without the expiry of the call-in period for that decision as shown on the website.

Joginder Bola, Senior Solicitor (Contracts & Procurement), 6/02/2023

Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Proposals and Analysis of Options

- The insurance
1. The lease arrangement requires the Council as Freeholder to arrange building insurance to cover the reinstatement value of the leaseholder's asset. Insurance must therefore be arranged. The insurance policy covers the leaseholder's asset against traditional home buildings insurance for fire and perils
- Previous Arrangements
2. The insurance was last tendered in 2019. We received 4 quotations from Zurich, Protector, Avid and Ocaso. Aspen declined to provide a quotation as London authorities are now outside of their underwriting acceptance criteria. Avid were the most competitive and awarded the contract on a five-year period, this kept the leasehold insurance in line with the main Property and liability policies next scheduled for tender in 2024. Tendering the whole programme together achieves the most preferential terms and premiums for the Council.
- Options
3. Following the exit of all previous leasehold buildings insurers, the recommended direct award to Protector provides the only option available as no alternative market is available to secure insurance from.

Do not insure – not recommended. The lease arrangement requires the Council as Freeholder to arrange building insurance to cover the reinstatement value of the leaseholder's asset. Not insuring is not therefore an option.

Insure with Protector – recommended. The insurance cover will provide financial protection for the Council and leaseholder in the event of an insured event including fire, storm and escape of water.

Quotes secured

4. Following Avid's decision to seek a 60% increase in price and then no longer offer insurance in the market, we engaged with Protector to obtain quotations on two options, detailed on the Exempt Appendix 1.
5. The £100 excess option, Protector originally quoted £2,071,916 + IPT. However, after further negotiation agreed to reduce their quotation to £1,990,000 + IPT.

A £100 policy excess (subsidence £1,000) will continue to be apply to all leaseholder claims and be payable by the leaseholder.

The self-funding figure is calculated based on averages over the previous three-year claim costs of both settled and outstanding reserves. Whilst we cannot be certain of future claims costs, using insurers standard underwriting and pricing practices, calculations are estimated using previous years claims experience data.

The 2022 Avid renewal premium was £1,533,748.10 inclusive IPT @ 12% and Terrorism cover.

Avid initially intimated a 60% premium increase however, this option is no longer valid.

The total premium cost is recharged to leaseholders.

Index linking is currently a major factor. The indexation figures used by insurers and applied to the buildings reinstatement value are derived from the guidance figures provided by the Royal Institute of Chartered Surveyors (RICS). In line with this guidance a figure of 17.5% for inflation has been agreed and will be applied to all Buildings reinstatement values across the Council including residential leasehold.

Reasons for Decision

6. Following the exit of all previous leasehold buildings insurers, Protector provide the only option available as no alternative market is available. Cover must be in place from 01/04/2023 as the lease arrangement requires the Council as Freeholder to arrange building insurance to cover the reinstatement value of the leaseholder's asset.

Equality Implications

7. N/A No negative impact. Having insurance in place will provide a positive impact for all leaseholders including leaseholders with protected characteristics as the policy provides financial protection of their assets in the event of an insured clam including fire, storm damages and escape of water

Risk Management Implications

8. The Council is obliged to provide under the terms of the lease. External insurance is necessary to provide a higher degree of financial certainty for the Council and its leaseholders, which enables it to operate in an environment where risk is always present. The terms of risk transfer for the Council are set by a contractual arrangement commonly called the insurance policy.
9. The Council's risk environment internally and externally has changed materially in recent years. In particular, the market for leaseholder building insurance has contracted sharply (with only one provider currently available) due to ongoing economic uncertainty and other external factors which have been taken into account in recommending the award of a short term contract for this form of insurance cover.

David Hughes, Director of Audit, Fraud, Risk and Insurance, 13 February 2023

Climate and Ecological Emergency Implications

10. There are no specific Insurance implications, other than the insurance cover provides financial protection against storm, flood and similar weather related events

Procurement implications

11. When the matter arose, investigations rapidly concluded that the insurable capacity in this space of leaseholds has greatly reduced and that we must act rapidly to avoid cost escalation or being unable to secure insurance at all. The quotes secured are via a market expert / our nominated broker of the Council and represent the best value available.

David von Ackerman – Head of Procurement 13/2/22

Consultation

12. As the contract is for one year only a formal leaseholder consultation would not be required. However, the intention is to write to leaseholders to explain the situation. We will also attend the leaseholder forum in late February to answer any questions and concerns from leaseholders. We will outline that full consultation will take place as part of the full tender of all the Council's insurances for contracts starting 1st April 2024.

LIST OF APPENDICES

Appendix 1 – Exempt Aspects