

Decision Maker: **Executive**

Date: **21st May 2018**

Decision Type: Non-Urgent Executive Key

Title: **FORMAL CONSULTATION ON THE PROCUREMENT STRATEGY FOR INSURANCE POLICIES**

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Chief Officer: Director of Finance

Ward: All Wards

1. Reason for report

The Council's current policies for insurance cover are due to expire on 30th April 2019. It is proposed to re-tender these policies for a period of five years, with an option to extend for a further period of three years. With a potential eight year contract term, the total value of the policies is estimated to be approximately £5.6m.

This report seeks approval to tender for these insurance policies, as well as approval to vary the Council's TFM contract to include an asset valuation review that will help inform the tender and ensure appropriate levels of cover are maintained.

2. **RECOMMENDATIONS**

2.1. **The Executive is requested to:**

(a) **consider the contents of the report;**

(b) **agree that the contracts for the Council's insurance policies be tendered using a restricted OJEU process;**

(c) **agree that the contract length will be for a period of five years with the option to extend for a further period of three years at an estimated annual value of £694k (gross) and an estimated whole life value, inclusive of extension option, of £5.6m (gross);**

- (d) delegate authority to the Director of Finance to approve the optional three year extension in consultation with the Portfolio Holder for Resources, Director of Commissioning and Director of Corporate Services;**
- (e) agree a variation of the Council's TFM contract with Amey for Cushman and Wakefield to undertake an asset valuation review for insurance purposes, the value of the variation being estimated at £200k as detailed in section 3.4;**
- (f) agree that the tender documentation to be used is that provided by the Council's Insurance Broker, JLT, as detailed in paragraph 3.6.4; and**
- (g) agree that contracts for the policies will be predominantly on the tenderers' proposed terms, as detailed in section 3.7.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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Corporate Policy

1. Policy Status: Existing Policy: To maintain appropriate levels of insurance cover to ensure adequate cover for Council properties, assets and services.
 2. BBB Priority: Excellent Council
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Financial

1. Cost of proposal: Estimated Cost £5.6m gross, £3.8m net of recharges to tenants/schools
 2. Ongoing costs: Recurring Cost £694k gross per annum, £468k net
 3. Budget head/performance centre: Insurance Fund
 4. Total current budget for this head: £694k gross, £468k net. Insurance Fund as at 31st March 2018 stands at £3.7m
 5. Source of funding: Insurance Fund
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: Insurance claims are handled under a shared services arrangement with the Royal Borough of Greenwich
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Legal

1. Legal Requirement: No statutory requirement or Government guidance.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Approximately 450 to 500 claims are received each year across all insurance covers.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1. Background

- 3.1.1. Like most organisations, ensuring adequate insurance cover is in place is one of the ways that the Council manages risk. It is the responsibility of the Council to determine the best balance between the level of premiums paid to external insurers and internal self-insurance arrangements paid from the Insurance Fund earmarked reserve.
- 3.1.2. The Council has a number of separate insurance policies, and these policies are subject to excess and stop-loss arrangements so that claims are only chargeable to the insurers if the cost of an individual claim is greater than the excess and/or if the aggregate of all claims exceeds the relevant stop-loss. The aggregate stop-loss is designed so that the Insurance Fund is protected in the event of a significant claim or a large number of successful claims.
- 3.1.3. The Council has historically handled self-insured claims in-house (with the exception of own fault or disputed motor claims involving a third-party), as well as managing more serious/complex claims in liaison with the insurer. This service has been performed by the Royal Borough of Greenwich (RBG) under a shared service arrangement since January 2014 which is currently due to expire on 31st March 2020.
- 3.1.4. Following tender processes carried out in 2014 for casualty (public liability, employers liability and officials indemnity) and in 2016 for all other covers, the Council currently holds insurance policies as set out below, all of which are due to expire on 30th April 2019:

Policy	Insurer
Casualty	Zurich Municipal
Fidelity Guarantee	Zurich Municipal
Property	Zurich Municipal
Leased properties	Zurich Municipal
Motor	Zurich Municipal
Engineering Inspection	Zurich Municipal
Terrorism	Thistle
Personal Accident & School Journey	Chubb

- 3.1.5. As a result of changes to the service profile of the Council, as well as external changes, it may now be appropriate to take out cover for additional risks, such as medical malpractice and cyber, and officers will be exploring options for these. It should be noted that some risks, such as fines as a result of a data protection breach are not currently insurable.
- 3.1.6. The Executive is requested to agree that a tender exercise be carried out for the Council's insurance policies (including any new policies that may be desirable) for a period of five years from 1st May 2019 to 30th April 2024, with an option to extend for a further period of three years.
- 3.1.7. As the total contract value is in excess of the EU threshold, the process must comply with the EU Public Procurement Rules. There are two options available that would comply with this requirement, which are summarised below.

3.2. CCS Framework

- 3.2.1. There is a Crown Commercial Services (CCS) Framework (RM3731) for insurance services which the Council could utilise, which includes all the main insurers in the market. The charge for using this framework is 0.75% of the policy costs, and the maximum Long Term Agreement (LTA) permissible is five years.

- 3.2.2. Although there can be benefits to using a framework agreement, such as reduced administrative work and shorter timescales, this is not expected to be of much benefit for this tender as there are only a limited number of potential providers, and there is sufficient time to conduct a full tender process.
- 3.2.3. In addition, when the non-casualty policies were tendered in 2016/17, the Council had attempted the tender process using two CCS frameworks both of which had to be aborted; the first because CCS expired call-offs sooner than expected and the second because two of the three “main players” in the local authority market were at the time non-compliant with the new framework’s requirements.
- 3.2.4. Although there is no reason to believe that any such issues would re-occur, the CCS framework is currently due to expire on 30th April 2019 (the day before the new policies are due to start), which may become a problem if the tender was delayed for any reason outside of the Council’s control.

3.3. **An OJEU tender process**

- 3.3.1. Alternatively, the contract could be tendered using a tender process advertised in the Official Journal of the European Union (OJEU) which would allow the Council to set its own conditions and evaluation criteria, as well as contract for a period longer than five years.
- 3.3.2. Although previous reports have noted that the option of a joint tender with RBG could be considered, this has been discussed with the Council’s insurance broker, Jardine Lloyd Thompson (JLT) (see section 3.6 below), who have advised against a joint tender to avoid any confusion due to the differences in risk profile between the authorities. In addition there are no real economies of scale that would be achieved, and separate tenders would also allow the Council to maintain control over the process and timescales.
- 3.3.3. On the basis of greater flexibility and potential issues with the framework in the event of delays, as well as the saving on the framework charge, it is therefore proposed that the contract be tendered using a restricted process, including advertising the opportunity in the OJEU and on Contracts Finder.

3.4. **Asset Review**

- 3.4.1. The sums insured for Council properties are now rather historic, and have been inflated annually by factors provided by the insurers. In order to ensure that Council assets have an appropriate insurance value, both to establish that assets are not under-insured, but also not over-insured and potentially inflate insurance premiums, it is proposed to carry out a review of the Council’s assets.
- 3.4.2. Cushman & Wakefield were asked to provide a proposal for a rolling review of the Council’s properties, with an initial focus on the high-value and high-risk properties, which would be reflected in the tender. Updated values from the rolling programme would then be reflected in future annual renewals.
- 3.4.3. Given the length of time since the last valuations, inspections would need to be carried out on the properties, which adds to the cost over a purely desk-based valuation, such as is carried out (on a rolling 5-year basis) for the Council’s annual accounts.
- 3.4.4. As a result, and as the first set of valuations would be for the most complex properties, the price would be £62,500 for the first 50 properties, although this would reduce for subsequent valuations (and any re-valuations if required). Officers are exploring whether costs relating to investment properties (particularly the more recent purchases) may be, in part at least, recoverable from the tenants. The cost would be met from the Insurance Fund and is

comparable to what other authorities have been charged/quoted for this service. It is estimated that the total cost for valuations of the approximately 190 properties that the Council is responsible for insuring would be around £200k over a period of 4 years.

- 3.4.5. This review can be undertaken through the Council's Total Facilities Management (TFM) contract with Amey, and the Executive is requested to agree a variation to this contract to cover this work.

3.5. **Actuarial Review**

- 3.5.1. As far as officers are aware, an actuarial review has never been carried out for the Council's insurance claims. This would be of benefit to make claims data more accurate/presentable to the insurance market for this tender, as well as for audit purposes. An actuarial review would look at integrity (how it all fits together), quality (if the data makes sense), and quantity (if anything is missing). In addition, it will consider any GDPR issues and accounting issues. Officers are intending to commission such a review at an estimated cost of £3-4k, which would be met from the Insurance Fund.

- 3.5.2. There are further elements that could be undertaken, such as a review of the Insurance Fund, the provision in the accounts and level of contribution to the fund, as well as a review of historic abuse/mesothelioma claims. However it is not felt that this would be of significant benefit to the Council at this stage, although this may be considered if anything is identified in the initial review.

3.6. **Use of Insurance Brokers**

- 3.6.1. With the exception of policies with Council's current main insurer, Zurich Municipal, the arrangement of insurance policies (and the annual renewals) generally has to be made through an insurance broker (e.g. out of the 26 insurers on the CCS framework, only three can deal directly with customers and not via a broker). The Council's insurance brokerage service has been provided by JLT since October 2010.

- 3.6.2. It is therefore desirable to retain a broker for this policy tender, and their assistance will be invaluable in reviewing the cover limits and types of cover (e.g. medical malpractice) prior to the tender. In addition, they will be able to assist in reviewing options for the claims handling service prior to the RBG contract expiry in 2020.

- 3.6.3. Given JLT's understanding of the Council's requirements and existing policies, the price reduction offered, as well as JLT also being RBG's broker, the contract was extended for three years until March 2021, to cover this tender exercise for policies from May 2019, and potentially for the claims handling service from April 2020 (if the agreement with RBG is not extended).

- 3.6.4. In addition, to ensure maximum response (there are only a limited number of insurers in the LA market), it is proposed to deviate from the Council's standard tender documentation and use JLT's documents, which the insurance market is very familiar with and able to easily review/assess. As an extreme example, JLT advised of one client who received no tender responses when they used their own documentation/questions. The Executive is therefore requested to agree this use of JLT's tender documentation.

3.7. **Use of Tenderers' Terms and Conditions**

- 3.7.1. From an insurer's point of view, the policy documents are the contracts, and as such are non-negotiable (as experienced with e.g. personal home/motor insurance). However, they don't necessarily include terms that the Council would require, such as suitable data protection, confidentiality, freedom of information, modern slavery act and prevention of bribery clauses,

so it is proposed that these be included in a separate schedule which tenderers must accept.

3.7.2. To safeguard the Council's interests from any unsatisfactory terms, a significant element of the quality criteria will effectively be an evaluation of their policy documents, which will have a minimum score to allow the rejection in the event of any unacceptable terms.

3.7.3. The Executive is requested to agree the proposed use of tenderer's terms and conditions, with the proposed additional terms schedule.

4. SERVICE PROFILE / DATA ANALYSIS

4.1. The Council currently receives around 450-500 insurance claims per year. A detailed analysis of the claims is included in the Insurance Fund Annual Report, which was last reported to Executive and Resources PDS Committee on 11th October 2017.

5. CUSTOMER PROFILE

5.1. The Council's insurance policies cover all of the main activities of the Council, as well as its assets, including those of the remaining maintained schools, and most investment properties.

6. MARKET CONSIDERATIONS

6.1. There are currently only five key insurers in the main Local Government insurance market: Zurich Municipal, Risk Management Partners (RMP), Maven, Travelers and Protector Forsikring.

7. STAKEHOLDER CONSULTATION

7.1. This is a corporate Council contract that does not materially affect the way services are provided to our stakeholders. No formal consultation is required in advance of a tendering exercise.

7.2. Should the tendering exercise result in a change of insurer(s), the Council's insurance provider, RBG, will need to be engaged in the transfer.

8. SUSTAINABILITY / IMPACT ASSESSMENTS

8.1. This proposal has been judged to have little or no impact on local people and communities.

9. OUTLINE PROCUREMENT STRATEGY & CONTRACTING PROPOSALS

9.1. Estimated Contract Value

9.1.1. Based on current insurance covers, the total gross contract value is estimated to be £5.6m, £1.8m of which will be recovered from tenants and any remaining maintained schools, leaving a net cost of £3.8m to be met by the Council.

9.1.2. The estimated values above are based on current policy costs, and it should be noted that the actual costs could vary dependent upon various factors outside of the contract manager's control, such as:

- Changes to the asset base of the Council
- Changes to the scope of services delivered by the Council
- Legal or regulatory changes resulting in additional cover required
- Claims experience changing from current/expected levels
- Changes to the level of Insurance Premium Tax (currently 12% since 1st June 2017)

- Changes to the Ogden discount rate for personal injury settlements

9.2. **Other Associated Costs**

- 9.2.1. The tendering exercise will be carried out mainly by the Council's insurance broker, JLT, at a cost of £2,500. RBG and Council input into and oversight of the exercise will be met within existing resources at no additional cost.
- 9.2.2. Should the outcome of the tender result in a change of insurers, there will be some resource implications associated with the transfer, however it is expected that this would also be contained within existing resources.
- 9.2.3. It should be noted that JLT will also likely receive commission/brokerage fees directly from the insurers, with the main exception of any policies with Zurich Municipal.

9.3. **Proposed Contract Period**

- 9.3.1. It is proposed that the contract will be for a period of five years, with an option to extend for a further period of three years, with authority to agree the extension delegated to the Director of Finance in consultation with the Portfolio Holder for Resources, Director of Commissioning and Director of Corporate Services. As is usual for insurance, the policies will be subject to an annual renewal exercise.
- 9.3.2. The school journey/personal accident policy will not be subject to a long-term agreement i.e. it will have annual break-clauses as this cover will no longer be required once the remaining maintained schools have converted to academy status.

9.4. **Procurement Project Plan**

- 9.4.1. Given the limited number of potential providers, it is intended that the contract is tendered using a restricted process, including advertising the tender in the OJEU and on Contract Finder.
- 9.4.2. The invitation to tender will require tenderers to complete a pricing schedule based on estimated activity levels, and to answer a range of questions on detailing the particulars of the policy cover.
- 9.4.3. It is proposed that the tender will be evaluated on the basis of 60% pricing and 40% quality. The quality criteria and weightings have yet to be finalised, but are likely to include areas such as:
- Financial resources and contract affordability
 - Assessment of policy cover (engineering service delivery)
 - Claims service
 - Added value and innovation
- 9.4.4. The Council includes a minimum quality threshold element within its quality evaluation to ensure the proper consideration of these matters, within the cost/quality ratio employed during the tender evaluation process.
- 9.4.5. It is expected that the new policies will be recommended for award at the March 2019 Executive meeting as set out in the draft summary timetable attached at Appendix 1. It should be noted that although this is close to the commencement date of the new policies, this is unavoidable as quotes from insurers are generally only valid for a maximum of 90 days.

9.4.6. Where relevant, tenderers will be asked to provide costs for various options, such as increasing the current level of cover for casualty above the current £30m limit, and changes to excess and stop-loss levels which will be informed by the proposed actuarial review. These options, as well as any new covers that may be desirable will be presented to the Executive for consideration as part of the award report.

10. POLICY CONSIDERATIONS

10.1. To maintain appropriate levels of insurance cover to ensure adequate cover for Council properties, assets and services.

11. COMMISSIONING & PROCUREMENT CONSIDERATIONS

11.1. The report sets out a procurement process which satisfies the requirements of the Council's Contract Procedure Rules and the Public Contract Regulations 2015.

11.2. Council Officers will have responsibility for the Tender Evaluation process and its scoring, with the Consultant providing advice to aid their consideration of any tenders received.

11.3. While it is unusual for the Council to adopt contract documentation put forward by a Consultant, in this case, which relates to a highly specialised area of service provision, adopting what equates to an industry standard document, this is likely to encourage market involvement in the process.

12. FINANCIAL CONSIDERATIONS

12.1. The current 2018/19 gross budget for insurance policies is £694k, of which £226k is recovered from schools and tenants, leaving a net budget of £468k, as summarised in the table below:

Policy	2018/19 budget £'000
Casualty	291
Fidelity Guarantee	22
Property	96
Leased properties	172
Motor	54
Engineering Inspection	12
Terrorism	36
Personal Accident & School Journey	11
Gross budget for policies	694
Recharges to schools/tenants	-226
Net budget for policies	468

12.2. It is intended that the report recommending award of contracts will include various options for different levels of cover, as well as potentially new covers, which could impact on the cost of the policies, but there is currently no expectation of any significant changes to premiums on a like-for-like basis.

12.3. In addition, it should be noted that premiums are not fixed for the policy term, as they are subject to annual renewals, and may therefore change as a result of various factors within and external to the Council, as highlighted in paragraph 9.1.2 above.

13. LEGAL CONSIDERATIONS

- 13.1. This report seeks the approval of the Executive to tender for the Council's insurance policies; the policies will last for a period of 5 years with an option to extend for a period of up to 3 years. The estimated value of the policies per annum is £694k and the total estimated value of the policies is £5,600k.
- 13.2. Rule 5 of the Contract Procedure Rules provides that for a contract with a total value of £1,000k or more the Executive will be formally consulted on the intended action and contracting arrangements.
- 13.3. Rule 8 of the Contract Procedure Rules provides that for contracts with a value above £500k/the EU threshold the Council must invite tenders from between 5 and 8 organisations and comply with the Public Contracts Regulations 2015. Procuring the contract using a restricted procedure is a compliant procedure. Regulation 65 requires that at least 5 candidates must be invited to tender.
- 13.4. The report author will need to consult with the Legal Department regarding the policies terms and conditions.

Non-Applicable Sections:	Personnel Considerations, Impact on Vulnerable Adults and Children
Background Documents: (Access via Contact Officer)	Renewal of Casualty Insurance Policies– E&R PDS Committee 5 th June 2014; Formal consultation on outline service proposals and procurement strategy – insurance renewals 2016/17 – E&R PDS Committee 8 th October 2015; Insurance Renewals 2016/17 – Update on Award of Contracts, E&R RDS Committee 16 th March 2016; Insurance Renewals 2016/17 –Award of Contracts, E&R RDS Committee 8 th June 2016; Insurance Fund Annual Report 2016/17 – E&R PDS Committee, 11 th October 2017; Renewal of Casualty Insurance Policies– E&R PDS Committee 5 th June 2014

Draft Procurement Timetable

Activity	Date
Approval to commence tendering	21 st May 2018
Issue of OJEU contract notice	October 2018
Receipt of tenders	8 th February 2019
<i>Evaluation and review process</i>	
Identification of final bidder	1 st March 2019
Executive decision to award	27 th March 2019
<i>Standstill / Call-in Period</i>	
Contract Award	17 th April 2019
Policy Commencement	1 st May 2019