

Resources Department
7 Newington Barrow Way
N7 7EP

Report of: Corporate Director of Resources

Date: 13 March 2023

Ward(s): All

Subject: Contract Award for Leaseholder Buildings Insurance Policy 2023-28

1. Synopsis

- 1.1. This report sets out the recommendation for contract awards for the leaseholder buildings insurance policy procured for the period 2023-2028.
- 1.2. The Council accepts an element of risk with regards to insurance claims and maintains an insurance fund to cover such eventualities. However, this insurance is a statutory obligation under Right to Buy Housing legislation and so must be procured.

2. Recommendation

- 2.1. To approve the contract award to Protector Insurance, as set out in the report.

3. Background

3.1. Nature of the Service

- 3.1.1. The Council has procured this insurance policy stated in 1.1 above through the Insurance London Consortium (ILC) for the period 2023-2028. The current policy expires on 31 March 2023 and the ILC tendered these policies for a further period of five years from 1 April 2023.

3.1.2. The Council is a member of the Insurance London Consortium (ILC). Croydon Council is the Accountable Member of the Consortium and leading on this procurement. The ILC was formed in 2008 and consists of nine London Boroughs (Croydon, Camden, Haringey, Harrow, Islington, Lambeth, RB Kingston, Sutton and Tower Hamlets). Five of the ILC members participated in this insurance tender, including Islington Council.

3.2. **Estimated Value**

3.2.1. The arrangement will be funded from Islington Council's leaseholder service charges. The value of the contracts for Islington for the five-year duration of the contracts is estimated to be £4.88m excluding the leaseholder buildings insurance, the cost of which would be £4.9m p.a. or £24.5m for the five-year period.

3.2.2. The premium expenditure for this year (2022/23) is approximately £373,000, excluding £2.9m for leaseholder buildings insurance, which is recharged to leaseholders and not a cost to the council. Islington receives insurance claims on an ongoing basis. To make savings, the Council looks at ways of managing risk in order to reduce the number of insurance claims received.

3.2.3. The table below shows the current year cost, plus annual and total costs for the five-year period from 2023 to 2028, under the new contract for general insurance premiums and leaseholder buildings insurance:

Premium	Current Year Cost £k	New Annual Cost Estimate £k
Annual amount	2,900	4,881
5-year total	n/a	24,405

3.3. **Timetable**

3.3.1. The procurement strategy was approved at the Executive meeting on 24 November 2022. The current contracts expire on 31 March 2023. The contract notice was published in the early autumn, which allowed for sufficient time to establish a new contract before the current contract ends. The timetable allows for Section 20 Consultation with leaseholders in respect this insurance policy.

3.3.2. Following the tender process, all boroughs involved need to observe their internal governance procedures in order to award the contract in time for the start date of 1 April 2023. ILC and senior staff in the Resources Department of the Council have been consulted regarding this proposal.

3.4. **Options Appraisal, Key Considerations and Social Value**

3.4.1. The Council needs to procure insurance from a third-party. It is not possible to deliver this in-house. The Council cannot afford to self-insure all risks and is not an FCA-approved organisation able to do this. It should be noted that some insurance policies are legal requirements, which includes leaseholder buildings insurance.

- 3.4.2. Options for using an existing framework agreement; procuring a standalone contract for Islington; and carrying out a collaborative procurement with the ILC were assessed as part of the options appraisal included in the procurement strategy. The recommended option was to procure with the ILC as a large-scale collaborative procurement was expected to bring economies of scale.
- 3.4.3. Following the collaborative procurement, the council has achieved the best outcome in a difficult insurance market. The leaseholder buildings insurance market has become much more limited over the past five years, in large part as a consequence of the Grenfell tragedy and a number of insurers withdrawing from this market. Islington and one other borough only had one bid for this part of the tender. Outside of this exercise it has been reported that some boroughs have received no bids for leaseholder buildings insurance tenders. The Department for Levelling Up, Housing and Communities (DLUHC) is aware of this situation and is undertaking a review of this market. Islington has at least managed to procure insurance, albeit at a substantial premium increase.
- 3.4.4. Islington wants to create a place where everyone, no matter what their background, has the same opportunity to reach their potential and enjoy a good quality of life. Essential to that vision is our Community Wealth Building agenda and this tender offers the ability to address as part of a wider London region investment that benefits our communities.
- 3.4.5. As part of the award criteria, bidders have provided proposals on Social Value, expressing how they will bring improvements to the economic, environmental and social well-being of the ILC boroughs through the delivery of these services. The commitments offered will support key policy objectives for Islington from its Progressive Procurement Strategy 2020/27, which embraces Islington's commitment to maximising the positive impact of the council's spending, using our spending and purchasing decisions to support change for London. The proposals put forward by the winning bidder will be enshrined within the contract and monitored to ensure a difference to the London community. Bidders put forward their innovative solutions which may support job, apprenticeships and skills creation, growth opportunities for local businesses and supply chain, and commitments to Net Zero Carbon.
- 3.4.6. A requirement for the payment of London Living Wage (LLW) has been included as a condition of this contract where the successful bidder is London-based. If the successful provider is based outside of London payment of the real living wage will apply. However, national market rates for this sector are in excess of the LLW levels.
- 3.4.7. The ILC was established to deliver better value on the provision of insurance services for the member boroughs. The successful tenderer will undergo significant financial checks to ensure, as far as is reasonably possible, their economic sustainability.
- 3.4.8. **Deductible levels ('the excess')** requested in the tender for leaseholder buildings insurance were agreed at the same level as they currently are. These are quite small figures (below £1000 other than for subsidence). In respect of leaseholders, the excess is currently £100, except for escape of water claims (£150) and subsidence (£1,000). The £100/£150 excesses are lower than the majority of the ILC boroughs.

3.5. Evaluation

- 3.5.1. The tender was conducted in one stage, known as the Open Procedure, as the tender was 'open' to all organisations who expressed an interest. The Open Procedure included minimum requirements which organisations must meet before the rest of their tender could be evaluated.
- 3.5.2. The evaluation award criteria agreed by all ILC boroughs was 60% price and 40% quality.

3.6. Business Risks

- 3.6.1. If there is no or insufficient insurance cover, the Council could be placed at considerable financial risk. The new contract will provide an opportunity to implement more robust contract management arrangements to maximise benefits for the ILC. There was an opportunity to test the market for competitive bids from a greater number of organisations than at the previous tender exercise. As referred to in 3.4.3 above, the Grenfell tragedy has made this market much more difficult and over the last few years, three major insurers have completely withdrawn from this market. Insurance Premium Tax is still at 12% but that could change in future, particularly given the state of the national finances.
- 3.6.2. The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.
- 3.6.3. The following relevant information is required to be specifically approved in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1. Nature of the service	Islington Council looked to procure the insurance covers listed in 1.1 above via an Insurance London Consortium tender See paragraph 1.1
2. Estimated value	Individual contract policy values are outlined in the exempt appendix to this report. The agreement is proposed to run for a period of up to 60 months. See paragraph 3.2.1

3. Timetable	Advert placed in early October 2022. Closing date for tender responses was late November 2022. Contract will commence 1 April 2023. See paragraph 3.3
4. Options appraisal for tender procedure including consideration of collaboration opportunities	Outcome of options appraisal are described within this report. See paragraph 3.4
5. Consideration of: <ul style="list-style-type: none"> • Social benefit clauses; • London Living Wage; • Best value; • TUPE, pensions and other staffing implications 	Outcomes are described within this report See paragraph 3.4.5 to 3.4.8.
6. Award criteria	The price/quality breakdown is: <ul style="list-style-type: none"> • 60% price • 40% quality See paragraph 3.5
7. Any business risks associated with entering the contract	Business risks are described within this report See paragraph 3.6
8. Any other relevant financial, legal or other considerations.	See section 4 below.

4. Implications

4.1. Financial Implications

4.1.1. The leaseholder buildings insurance is recharged to leaseholders and is not a cost to the council. The estimated annual cost of this insurance re-tender is £4.9m per annum, £24.5m over five years. This represents a 68% increase over the current arrangement.

4.2. Legal Implications

4.2.1. The Council has a fiduciary duty to Council tax payers, and must carry out its functions in a business-like manner with reasonable care and skill. Adequate insurance provision is central to good governance, effective business planning and the safeguarding of the council's assets. Accordingly, the Council has the power to enter into a contract for the provision of insurance cover to protect its assets, liabilities and risks under section 1 of the Local Government (Contracts) Act 1997 on the basis such subscriptions for insurance are properly required as being incidental to the discharge of its functions.

4.2.2. The estimated value of the procurement for the new insurance contract is above the financial threshold for service contracts for the full application of the Public Contracts Regulations 2015 (PCR). Therefore, the contract was procured using the open procedure and advertised on the Find a Tender Service (FTS) in compliance with the PCR and the council's Procurement Rules.

4.2.3. Accordingly, the contract may be awarded to the highest scoring tenderer. In deciding whether to appoint the selected provider the Corporate Director of Resources will need

to be satisfied as to the competence of the chosen provider and that the tender price represents value for money for the council.

4.3. Environmental Implications and contribution to achieving a Net Zero Carbon Islington by 2030

4.3.1. The contracts will be delivered with the intention of keeping the carbon footprint to an absolute minimum. All documentation will be transmitted electronically as far as possible and meetings will be held virtually as much as possible to minimise travel requirements.

4.4. Equalities Impact Assessment

4.4.1. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

4.4.2. An Equalities Impact Assessment was completed in August 2022 and approved.

5. Conclusion and Reasons for Recommendations

5.1. This report seeks approval to make the award of this contract following the tender exercise with the ILC for the Council's insurance policy. The new contract will ensure that there is no break in the provision of this insurance for the Council and its leaseholders.

Appendices:

- None.

Background papers:

- None.

Final report clearance:

Signed by: **David Hodgkinson**

Corporate Director of Resources

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