

MUNICIPAL YEAR 2018/2019 REPORT NO.

MEETING TITLE AND DATE:

REPORT OF:

Executive Director of
Resources

Contact officer and telephone number:

Kay Osborne (Insurance Manager) – 0208 379 1476

E mail: kay.osborne@enfield.gov.uk .

Agenda – Part:

Item:

**Subject: Corporate Insurance
Arrangements**

Wards: ALL

Key Decision No: 4661

Cabinet Member consulted: Cllr Maguire

1. EXECUTIVE SUMMARY

1.1 The Council's insurance cover is provided through a mix of internal (self-insurance) and external arrangements. Having adequate external insurance in place is integral to the functioning of the authority, enabling the Council to meet insurable financial losses that may arise from the delivery of services.

1.2 The Council re-tendered its external insurance policies in 2014 (Key Decision 3810) and a 5 year Long Term Agreement (LTA) was entered into. The current insurance contract for Council is due to end on 31/03/19.

In order that the Council can maintain protection against its legal liabilities and significant financial risks, there is a need for a new arrangement to be agreed and in place for 01/04/19 to ensure continuance of cover.

2. RECOMMENDATIONS

2.1 To tender the current insurance contract by using the Crown Commercial Services (CCS) Framework.

2.2 As part of the tender, to consider and accept premium quotations for alternative policy excesses and aggregate stop limits that offer the best balance between risks and cost to the Council.

2.3 To delegate final decision to place the Business to the Executive Director.

3. BACKGROUND

3.1.1 The Council's insurance cover is provided through a mix of internal (self-insurance) and external arrangements. The Council's insurance fund meets the costs of self-insured claims and claims within the policy excesses, up to the aggregate stop limit (maximum payable by the Council in each policy year). Costs of claims above these levels are met by the external insurance providers.

3.1.2 Following a procurement exercise for the provision of external general insurance arrangements, the Council entered into a contract commencing 01/04/14. The contract was let on the basis of a three year Long Term Agreement (LTA) ending 31/03/17, with the option to extend for a further two years in increments of 12 months.

3.1.3 The Council benefits from the fixed premium rates and LTA premium discounts under the contract.

3.1.4 Approval was given by Cabinet to award the contract on the above basis to the following insurers

CATEGORY	INSURER
Property	Zurich Municipal
Combined Liability	Travelers Insurance
Motor	Zurich Municipal
Engineering Inspection	Zurich Municipal
Additional Covers	Zurich Municipal
Standalone policies	Zurich Municipal

3.1.5 In September 2014, Travelers Insurance, the provider awarded the combined liability insurance contract advised of their intentions to make adjustments to premium rates, which resulted in the LTA being broken.

3.1.6 A tender exercise was carried out using the Crown Commercial Services "Insurance Services Framework Agreement (RM3731)" Key Decision 3994 and Aspen Insurance were awarded the combined liability contract for a period of two years, with the contract ending on 31/03/19.

3.2 Tender new insurance arrangement

3.2.1 As the current insurance contract is due to expire on 31/03/19 a tender exercise needs to be undertaken for the new insurance arrangements. To provide the best premium rates, the likely duration for the insurance contract will be 5 years, which will consist of an initial 3 year length with an option of extending it annually for a further 2 years.

3.2.2 The contract will be split into the following lots –

- Lot 1 - Material Damage
- Lot 2 - Liability
- Lot 3 - Motor Fleet
- Lot 4 - Group Personal Accident & Travel
- Lot 5 - Engineering Inspection*
- Lot 6 - Contract Works
- Lot 7 - Fidelity Guarantee
- Lot 10 - Fine Arts
- Lot 11 - Commercial Leased Properties
- Lot 12 - Motor Uninsured Loss Recovery
- Lot 13 - School Journey

* Consideration needs to be given as to whether engineering inspection is included in the tender. Historically this has been included (current premium cost is £120k) but there is no legal obligation for the statutory inspections to be carried out by an insurance company. A proposal has been made to Corporate Maintenance & Construction Team (CMCT) to test the market for providing statutory inspections, which is not restricted to insurance companies, in order that the corporate insurance arrangement will remain specifically focused on insurance business.

3.2.3 The Council's claims experience is good and is a positive reflection of the sound risk management policies and processes that exist within departments. Therefore, competitive rates are expected. However, when the existing insurance programme is presented to the market there is no guarantee that the new tender exercise will achieve savings for the Council due to changes in the market since the original contract was let.

3.3 Exploring different excess levels and aggregate stop limits

3.3.1 To self-insure risks, an organisation is required to maintain adequate levels of resource to meet all claims made against it. To achieve this, the policy excesses and aggregate stop limits are set at levels that provide the best balance between risks and costs.

3.3.2. For the Council, excess levels and aggregate stop limits have been set on a policy by policy basis and range from £250 to a maximum of £500,000 (policy excess) and zero to £3 million (aggregate stop limit).

3.3.3 The insurance market is generally volatile and is influenced by local pressures and events. Whilst most events have little or no direct impact on local authorities, the market reacts by adjusting premiums in order to mitigate its risk globally.

3.3.4 The Council successfully achieved competitive rates at the last tender exercise in 2014. Once the existing insurance programme is presented to the

market there is no guarantee that the new tender exercise will achieve savings or competitive rates for the Council due to changes in the market since the original contract was let.

3.3.5 To ensure that the Council's level of self-insurance provides the best balance between risks and costs, an actuarial review of the insurance fund is commissioned every three years.

3.3.6 As part of the last actuarial review of the Council's insurance fund, commissioned in 2017, the Actuary recommended contribution rates for the fund based on the current and possible alternative excess levels and aggregate stop limits as set out below:

Option	Contribution increase payable
Current programme (all excess = £500,000)	£0
All excess = £1,000,000	£150,000
All excess = £2,000,000	£300,000
All excess = £5,000,000	£400,000

3.3.7 It is proposed that the invitation to tender should specify a requirement to offer premium quotations for the existing and alternative policy excesses and aggregate stop limits that offer the best balance between risks and cost to the Council. These would need to be compared against the Actuary's estimates of additional contributions required to meet any potential shortfall in the insurance fund.

3.4 Route to market - CCS Framework

3.4.1 The Crown Commercial Services (CCS) Framework for insurance (RM3731) provides a list of insurance companies who have already expressed interest in the public sector insurance market. All providers have already been initially assessed as being capable of providing the range of insurances required by local authorities. This reduces the risk of the Council placing business with an insurer who may not have adequate financial capabilities or who is unable to provide adequate coverage or fully appreciate the specialised risks involved in Council operations.

3.4.2 Most insurers who are capable and willing to insure local authorities are already on the CCS Framework. Their terms & conditions have already been agreed and the need to conduct lengthy negotiation or consultation is reduced. Non-cashable savings will be made because the timescales of the process and the resources required will be reduced. However, a Brokers Management fee of 0.75% premium and Insurance Premium Tax (IPT) is payable.

3.4.3 By using the framework route it is hoped that competitive rates will be offered as a result of comparison between providers that are already assessed as capable of supplying to the local authority market. This approach was used successfully in the previous tender in 2014 (Key Decision

3810) and also for the appointment of Aspen for public Liability insurance in 2015 (Key Decision 3994), both of which resulted in a small decrease in premium costs.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 Competitive negotiation

4.1.1 There are only a limited number of insurers who are able to underwrite the range of risks associated with local authorities and these companies are included under the CCS Framework.

4.1.2 Competitive negotiation would require the Council to undertake due diligence to ensure that a potential insurer has the financial capacity, capability and expertise to provide an adequate level of insurance.

4.1.3 Whilst competitive negotiation can provide added detail/clarification to bidders regarding the risks the Council brings to the market, as policy wording is set by insurers there is limited scope for negotiation. A full and comprehensive Invitation to Tender document will address all the risks the Council brings to market.

4.2 Collaboration with other local authorities

4.2.1 As insurance is a risk transfer mechanism, local authorities procuring a joint policy will have very similar insurance requirements because of the similarity of their services. Collaboration could give rise to savings on procurement costs and insurance companies should be incentivised to offer lower premium rates for the increased business opportunity. However, insurance companies will base their offer on risk profiles of each partner in the collaboration (including claims history and risk management) and pitch their price to cover the highest risk.

Therefore, for Enfield to benefit from collaboration, it would be important to ensure that other partners have a similar or better risk profile. In addition the insurance contracts for collaborating parties must have harmonised renewal dates.

4.2.2 Significant work has been undertaken to explore the possibility of collaborating with other local authorities; however no other authorities have better risk profiles than Enfield or similar renewal dates.

4.2.3 There may be the opportunity to join the Local Government Association Insurance Mutual, which is currently being developed and may be operational in late 2018/19. Although Enfield is represented on the Board of the Mutual and part of the development group, the Mutual is not yet operational and it is unlikely that this option will be available in time to ensure continuity of cover. However, this may be an option for the future.

4.3. Self-insurance

4.3.1 Self-insurance would result in premium savings but brings the need to maintain adequate level of resources to meet all likely claims/ liabilities against the organisation.

4.3.2 If the contract is not re-tendered, the Council will have to completely self-insure against its liabilities. The ability to self-insure is dependent on the provision and maintenance of an adequate internal insurance fund, which for complete self-insurance may be in the tens of million pounds.

4.3.3 As a measure of the risk arising from claims against the Council over the last five years, the value of reserves has fluctuated between £402k to £3.4m, with reserves in excess of £1m for a small number of claims. Whilst the value of future claims is difficult to predict, it would be necessary to increase the value of the Fund to cover these potential liabilities. In the current financial climate, it is prudent to continue to insure externally for those major/ catastrophic risks that the Council may not be able to meet should they occur.

5. REASONS FOR RECOMMENDATIONS

5.1.1 To agree to tender the Council's insurance policies will ensure that the Council complies with legislative requirements and has adequate financial protection in the event of a major loss.

5.1.2. All providers on the Crown Commercial Services (CCS) Framework for insurance (RM3731) have already been initially assessed as being capable of providing the range of insurances required by local authorities. Their terms & conditions have already been agreed and the need to conduct lengthy negotiation or consultation is reduced. Non-cashable savings will be made because the timescales of the process and the resources required will be reduced.

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

There are no financial implications arising from this report.

6.2 Legal Implications

There are no legal implications arising from this report.

6.3 Property Implications

There are no property implications arising from this report.

7. KEY RISKS

7.1 If the Council fails to procure a new insurance contract, its assets and liabilities will be uninsured with effect from 01/04/19. If this were to occur, consideration could be given to extending the existing contract on a one year basis.

7.2 Where financial liabilities are or could be incurred, adequate funds must be set aside to meet them. In the absence of adequate external insurance arrangements, the Council will potentially be faced with unlimited financial liabilities.

IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

7.1 Good homes in well-connected neighbourhoods

Adequate insurance ensures the preservation of an adequate housing supply in the event of the catastrophic loss of housing stock.

7.2 Sustain strong and healthy communities

Safeguarding the council's funds ensures that necessary monies are preserved for vital council services, such as those that benefit the health of the community.

7.3 Build our local economy to create a thriving place

For those considering an event/project with the Council knowing that the council has adequate insurance may influence the decision to invest.

The presence or lack of insurance may be the deciding factor for those considering investing in the local economy or contemplating working in partnership with LBE for a joint initiative or event. It is therefore imperative for the council to be adequately insured, so as to attract investment and initiatives that allow Enfield to thrive.

8. EQUALITIES IMPACT IMPLICATIONS

It is not relevant or proportionate to undertake an equalities impact assessment/analysis of the tender of the Council's Insurance contract as the items summarised in this report only affect the Council's ability to meet financial losses arising from its insurable risks.

Where a third party suffers loss due to negligence on part of the Council, the loss will be assessed on the basis of legal liability determined by the facts of the incident and not on an individual's personal circumstances or characteristics.

9. PERFORMANCE AND DATA IMPLICATIONS

There are no specific performance management implications arising from this report.

10. HEALTH AND SAFETY IMPLICATIONS

There are no direct health & safety implications arising from this report.

11. HR IMPLICATIONS

There are no direct HR implications arising from this report

12. PUBLIC HEALTH IMPLICATIONS

Items summarised in this report do not have a direct impact on the health and well-being of the public in Enfield.

Background Papers

MUNICIPAL YEAR 2018/2019 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

OPERATIONAL DECISION OF:

Executive Director - Place
in consultation with the
Executive Director -
Resources

Contact officer and telephone number:
Julia Haralambous 020 8379 5297
Email: Julia.haralambous@enfield.gov.uk

Agenda – Part: 1

KD Num: KD4240

Subject:

Entering into agreement with North
London Muslim Housing Association to
provide a mix of 21 dwellings for
affordable rent.

Wards: Ponders End

1. EXECUTIVE SUMMARY

- 1.1 The Council has set aside some right to buy receipts, to be utilised by RP's by March 2020.
- 1.2 Report KD 4573 recommended any future decisions to authorise funding and entry into legal agreements, be delegated to the Executive Director – Place, Regeneration and Environment in consultation with Executive Director of Finance, Resources & Customer Services respectively.
- 1.3 This report recommends the Council awards grant funding to North London Muslim Housing Association and enters into an agreement with them on the terms of its use and on the respective roles and responsibilities of each party.

2. RECOMMENDATIONS

It is recommended that the Executive Director – Place in consultation with the Executive Director – Resources:

- 2.1. Approve the award of RTB funding to North London Muslim Housing Association, (NLMHA) to part fund development of twenty one dwellings) for affordable rent and enter into a grant funding agreement.

3. BACKGROUND

- 3.1 In October 2017, report KD 4573, reported on the outcome of grant awards approved as part of round one submission. The report also recommended and authorised changes to the grant submission process to maximise future grant expenditure under round two.
- 3.2 In addition, the decision to make future awards of funding and enter into grant funding agreements with recipients has been delegated to the Executive Director – Place, Regeneration and Environment and the Executive Director of Finance, Resources & Customer Services respectively.
- 3.3 Following approval of the above report the Council wrote to all the registered providers who own and manage stock in the borough. This was to advise a second round of grant funding had been launched and that changes had been introduced to make the grant more attractive to registered providers and to speed up the decision-making process. In addition, under round two, grant funding would be made available on a continuous market engagement basis, thereby giving providers' flexibility to submit claims as and when they are ready for consideration.
- 3.4 NLMHA entered into the affordable housing contract with the developer partner Lovell Partnership Ltd on the 20th August 2018 to purchase the affordable units off the shelf. The units in Block A1 are due to complete on 31st October 2018.

3.5 Entering Grant Agreement

- 3.5.1 Grant awards are provisional and payment is subject to entering agreement with prospective recipients on the terms of its use and our respective roles and responsibilities.
- 3.5.2 Officers have now finalised negotiations with NLMHA and recommend the Council enters agreement with them to enable defraying of expenditure and facilitate delivery of new affordable housing as outlined in their bid. In keeping with the new provisions for round two 100% of the grant will be payable to NLMHA on signing the agreement.
- 3.5.3 NLMHA will be required to enter into a binding grant funding agreement with the Council prior to the release of the grant, obliging them to repay in full, (in case of delay in repayment, interest will accrue), the total amount of the funding as initially transferred under the agreement.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could choose to do nothing. If this course of action was adopted the Council would not be able to fulfil its duty to provide affordable housing for rent and utilise this expenditure as agreed.

- 4.2 It will not only have to return the receipts to Central Government but also pay interest, currently 4% above the base rate compounded, from the time the receipt was generated.

5. REASONS FOR RECOMMENDATIONS

- 5.1 The Council's Housing Strategy requires 798 new homes be built each year.

- 5.2 If approved the funding will;

- Increase the portfolio of affordable rented accommodation in the borough and available to the Council
- Assist the Council to discharge its statutory duties to households on the housing waiting list and those living in temporary accommodation
- Ensure the Council retains 100% nomination rights to a mix of 40 affordable rent dwellings
- Make this scheme potentially more attractive to prospective RP's and encourage them to submit bids for grant funding
- Achieve the Council's objectives not to return receipts to the Department of Culture and Local Government

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 The bid total is £1,002,609 which will be funded from RTB receipts and paid to NLMHA in 2018-19.

- 6.1.2 The granting of these sums to RP's means that they are required to match fund the grant sums with a 70% contribution from their own resources. This means that the Council does not have to find the 70% match funding from within its HRA.

- 6.1.3 The grants will be made from the Council's General Fund Capital Programme (Scheme C380143), with the corresponding capital receipts transferred to fund them.

6.2 Legal Implications

- 6.2.1 S.111 Local Government Act. 1972 ("LGA") gives a local authority power to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of its functions.

- 6.2.2 S. 112 LGA permits the appointment of such officers that the Council deems necessary for the discharge of its functions. The proposals set out in this report are consistent with this power.

6.2.3 Under s.8 Housing Act 1985 ("HA") the Council as local housing authority has a duty to keep under review the provision of housing in its area, and has power under s.9 HA to provide housing accommodation through erecting or acquiring houses. Local authorities also have a general fiduciary duty to Council Tax payers and must therefore take whatever is the overall most reasonable and cost effective course of action in order to deliver best value from land owned by them.

6.2.4 S.1 Localism Act 2011 permits the Council to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. Creating stronger communities and addressing current housing needs are key priorities for the Council.

6.2.5 Provided that the:

- (a) evaluation criteria used to award the grant allocations to the organisations have been consistently and fairly applied and the;
- (b) competition process utilised was in accordance with the principles of the Council's Contract Procedure Rules ("CPRs") and the overarching EU Treaty Principles

then, despite the grant allocations being arguably able to be deemed public contracts (under the Public Contracts Regulations 2015 ("PCRs") and having values above the applicable EU threshold £164,176 (whereby an OJEU notice would be appropriate unless an exemption applies), the award of the grant allocations should present a low level of risk to the Council going forward, given that the awardees themselves are representative of the very organisations who could constitute possible challengers (were they not awardees in this instance).

6.2.6 With reference to any challenge to the awards, based on the PCRs: if challenged, as long as the Council in this instance, can point to a transparent, and fair (if limited) competition process, there should be a low level of risk of any successful challenge being brought under the PCRs.

6.2.7 Not having gone out to OJEU in these circumstances, it must be borne in mind that there is always the possibility of any registered provider who feels they may have been unfairly excluded from the selection of RP's who were chosen to be invited to express an interest, bringing a challenge to the awards - though that risk is low, given that the current awardees themselves represent the possible range of challengers that could be expected to come forward.

6.2.8 This report constitutes a Key Decision and the Council's Key Decision process must be followed.

6.2.9 Any resultant legal agreements/grant funding agreements must be in a form approved in advance of commencement by Legal Services.

6.3 Property Implications

Strategic Property Services supports the initiative to grant the North London Muslim Association the sum of £1,002,609 in support of the delivery of 21 number homes on the Electric quarter regeneration scheme.

Consideration needs to be given to the legal mechanism the Council employs to secure these benefits with appropriate clawback provisions in the event of non-delivery in part or whole. The Council should also ensure that a nominations agreement is entered into to secure these benefits on all future re-lettings.

7. KEY RISKS

- 7.1 If the Council does not do this there is a risk that it could fail to meet its statutory obligations to households on the housing register.
- 7.2 There is a possibility of the RTB receipts not being spent within the specified timeframe. If this were to happen the Council would not only have to repay any unspent amounts but also pay interest of 13.5%.
- 7.3 To mitigate this risk, the Council will enter a grant funding agreement with successful grant recipients which would enable a swift draw down of grant.
- 7.4 This arrangement will allow grant to be drawn down within new prescribed deadlines thereby reducing the possibility of returning unspent amounts with interest to the DCLG.
- 7.5 The grant agreement will include a rigorous and robust claw back arrangement to ensure repayment of grant in the event of default.

8 IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

8.1 Good homes in well-connected neighbourhoods

This grant facilitates the delivery of much needed affordable housing for rent in the Borough.

8.2 Sustain strong and healthy communities

The grant ensures genuinely affordable housing at London Affordable Rent supporting Community cohesion by ensuring local people can be house closed to their communities.

8.3 Build our local economy to create a thriving place

The provision of new affordable housing has a multiplier effect on local economic development by creating additional demand for local good

and services alongside the socio-economic benefit of the wider regeneration of the area.

9. EQUALITY IMPACT IMPLICATIONS

The Council recognises that providing good quality, affordable housing within the Borough helps those most in need of a home and least able to afford property on the open market.

Three large wheelchair adapted flats are included in these units.

An Equalities Impact Assessment, (see Background Documents) shows that the allocation of funding to NLMHA does not discriminate against any group sharing a protected characteristic. The EQIA highlights benefits to clients in protected groups such as those with disabilities, ethnic minorities, elderly persons and single pregnant women.

The Council will retain 100% of the initial nomination rights and properties will be allocated in accordance with the Councils current procedure. NLMHA has an Equal Opportunities Policy and we are satisfied that the organisation will meet the Public Sector Equality Duty in the on-going management of tenancies and will have a positive impact on the equality groups over represented.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The Council recognises that providing good quality, affordable housing within the Borough helps those most in need of a home and least able to afford property on the open market.

Three large wheelchair adapted flats are included in these units.

A scoping Equalities Impact Assessment, (see Background Documents) has been completed. This highlights benefits to clients in protected groups such as those with disabilities, ethnic minorities, elderly persons and single pregnant women:

No specific negative impact has been identified.

11. PUBLIC HEALTH IMPLICATIONS

Secure housing is a basic human need and essential to maintaining and improving health. Increasing this capacity will improve the Council's ability to improve the health and wellbeing of residents' health.

Background Papers

EQIA