

	<p style="text-align: center;"><b>Executive</b> 18<sup>th</sup> June 2007</p> <p style="text-align: center;"><b>Report from the Director of Finance and Corporate Resources</b></p>
<p style="text-align: right;">Wards Affected: NONE</p>	
<p><b>Award of the contract for insurance of leasehold housing revenue properties</b></p>	

Forward Plan Ref: F&CR-07/08-1

## **Appendix 5 is not for publication**

### **1.0 Summary**

- 1.1 This report requests authority to award a contract for the insurance of leasehold housing revenue account properties as required under Standing Order 88. This report summarises the process undertaken in tendering the contract and following completion of the evaluation of the tenders, recommends to whom the contract should be awarded.

### **2.0 Recommendations**

- 2.1 That Members approve the evaluation criteria listed in paragraph 3.8 and (subject to recommendation 2.2) award the contract for the insurance of leasehold housing revenue properties to Aspen Insurance Holdings Ltd., to take effect from the 1<sup>st</sup> August 2007 for a period of 3 years with an option to extend the contract for up to a further 2 years.
- 2.2 That Members note that the contract cannot be entered into until the final process of statutory consultation with leaseholders has been undertaken, and that the contract will not be entered into unless the Director of Finance and Corporate Resources is satisfied that no concerns raised by leaseholders require the award decision to be reviewed by the Executive.

### **3.0 Detail**

- 3.1 This contract is for a comprehensive insurance cover for leasehold properties which forms part of the Council's housing revenue account property. These properties are primarily flats, and this insurance provided by the Council is required under the leaseholders agreement. The cover is on the basis of comprehensive householders policy and the cover extends to the demised (inner shell) part of the property. The Council as freeholders are still responsible for the exterior of the building. Contents insurance is arranged separately by the householder. The premium charged by the insurers is based on a notional value of each unit multiplied by the number of units which is currently 3,700.
- 3.2 The provision of this insurance is set out in Brent Council's leases and the day to day administration of the provision is carried out by Brent Housing Partnership. Notwithstanding this the procurement process and contract award must be conducted by the Council because ownership of the assets still rest with the Council. The total premium for 2006/07 was £279,000.
- 3.3 The previous cover expired on the 31<sup>st</sup> March 2007 and a further 4 months cover has been purchased from the current provider.
- 3.4 At the Executive meeting on 9<sup>th</sup> October, Members received a report about the Council's insurance arrangements. One of the decisions was in relation to the inviting of tenders for the Council's insurance arrangements, and certain evaluation criteria were approved.
- 3.5 Insurance services are required to be tendered in accordance with the full tendering requirements of the European public procurement regime as set out in the Public Contracts Regulations 2006 ("the EU Regulations").
- 3.6 The tender process was undertaken by the Council's current insurance brokers, on behalf of the Council.
- 3.7 In accordance with the Schedule 2 of the Service Charges (Consultation Requirements) Regulations 2003, which governs the consultation procedure with leaseholders in respect of long term agreements in excess of twelve months where public notice is required, the initial consultation process with leaseholders commenced in November 2006.
- 3.8 The tender pack was prepared on the basis that the contract would be awarded to the tenderer submitting the most economically advantageous tender. Unfortunately the brokers handling the procurement on the Council's behalf then stated different evaluation criteria to that approved by Members at their meeting on 9<sup>th</sup> October. Instead the Invitation to Tender was prepared using the following criteria:
- Price - 25 marks

- Extent of Cover provided – 25 marks
- Flexible Underwriting approach – 5 marks
- Information Technology and data exchange capabilities – 5 marks
- Experience of underwriting in the public sector – 5 marks
- Depth of Insurers risk management and control resources – 5 marks
- Commitment to the Public Sector and future strategy – 5 marks
- Financial and Economic Standing – 5 marks (there was no pre-qualification stage so financial standing was to be assessed in the course of tender evaluation)
- Claims Management Strategy – 25 marks

3.9 On the 12<sup>th</sup> December 2006 a contract notice was posted in the Official Journal of the European Union using a restricted (two-stage) procedure. The notice stated that all those expressing an interest would be invited to tender. On the 30<sup>th</sup> January 2007 the Invitation to Tender was issued to the market. Unfortunately it then transpired that there was an error in the original contract notice prepared by the brokers and Council officers took the decision in conjunction with BHP to retender. As by this time there were time pressures, officers relied on provisions in the EU Regulations to shorten the usual timescales for expressions of interest and tendering.

3.10 The OJEU notice was re issued on the 8<sup>th</sup> February 2007, again advising that all those expressing an interest in the tender would be invited to tender. Invitations to Tender were despatched on 9<sup>th</sup> February 2007 and tenders closed on 23<sup>rd</sup> February 2007. Four tenders were received, the Council's adviser did register their disappointment at the number of insurers expressing an interest in the business on offer. Historically this type of business has been very attractive to insurers as they able to run the business with low overheads and the premiums have been competitive because of this. However, for a number of reasons the market has changed, insurers highlighting the claims experience for this type of policy has deteriorated and shows no sign of improvement. This is the experience of most Authorities which have this type of cover.

3.11 Although tenderers had been requested to tender on the basis of contract terms of 1 year, 3 years, 3 years plus two years' extension and 5 years, the only option on which all 4 tenders priced was for 3 years with the option of a two year extension.

#### **4.0 Results of Evaluation**

4.1 The unsuccessful tenderers' names have been withheld from publication, so for the remainder of this report they are referred to as tenderers B, C and D. Their names are given in Appendix 5 (not for publication).

4.2 The attached appendices 1- 4 give commentary against the given evaluation criteria. Aspen Insurance Holdings Ltd were the most competitive on price. The scores for Extent of Cover and relating to financial stability were very similar in all cases.

4.3 Summary of annual prices using the tenders for a 3 year agreement for benchmarking purposes.

ASPEN	Tenderer B	Tenderer C	Tenderer D
£396,129.33	£460,003.13	£407,489.76	£472,973.53

4.4 Here is a table of the scores:

Table of overall scores

Evaluation criteria	Maximum mark	Aspen	Tenderer B	Tenderer C	Tenderer D
Price	25	25	21	24	20
Extent of cover provided	25	25	20	20	20
Flexible Underwriting approach	5	5	3	4	5
Information technology & data exchange capabilities	5	5	5	5	5
Experience of Underwriting in the Public Sector	5	4	5	2	5
Depth of Insurer's risk management and control resources	5	4	3	3	5
Commitment to the public sector and future strategy	5	5	3	3	5
Financial and Economic Strategy	5	5	5	5	5
Claims management strategy	25	20	20	20	20
<b>Total</b>	105	98	85	86	90

4.5 Out of the different options for contract length, it is recommended to award a three year contract with provision for a two-year extension because a five year agreement reduces the Council's flexibility in an increasingly volatile market.

## **5.0 Financial Implications**

- 5.1 The annual premium is paid over to the insurers by the Council, the premiums being calculated on a notional value per unit, the number of units currently is 3,700.

The premiums are then recharged to leaseholders on the basis of the numbers of bedrooms in the property and below are details of the current charges:

1 bedroom property	£55
2 bedrooms property	£62
3 bedrooms property	£70
4 bedrooms property	£76

The reason for using bedrooms as the charging criteria is that it is a constant figure and is a fairer method than valuation which fluctuates over time and can give rise to inconsistencies in charges.

- 5.2 The initial cost in the first year of the new contract will be £396k this will then be collected as part of the service charges to leaseholders and there should be no financial impact to the Council's budget. However Members will note that these new arrangements will result in a 42% increase in charges for leaseholders which has been experienced by a number of other authorities. The main reason for the increase is set out in 3.10 of this report. Leaseholders will be made aware as part of the further consultation that this remains good value compared with cover that can be obtained individually in the market.

## **6.0 Legal Implications**

- 6.1 The requirements for leaseholder consultation are set out in regulation 5(2) and Schedule 2 of the Service Charges (Consultation Requirements) Regulations 2003. (S.I.:2003/1987). These provisions take effect in these circumstances because the contract for the insurance of leasehold housing revenue account properties is for a term of more than twelve months and the expected contribution from some leaseholders is likely to be more than £100.00 per annum. The decision as to which tenderer the Council intends to award the contract must be made by the Executive. Once approval has been received from the Executive to award this contract, a final consultation with Leaseholders must be carried out before the contract is entered into. This will involve notifying the leaseholders of the proposed contract into which the Council proposes to enter with the successful tenderer in respect of the insurance of leasehold housing revenue account properties. Leaseholders have 30 days from the date of the notice of the proposed contract to make their observations and within 21 days of receiving the observations, Brent Housing Partnership, on behalf of the Council, must respond to the

observations and must have regard to them. Once these responses have been given, the contract between the Council and the successful tenderer is entered into. By completing this consultation process, Brent Housing Partnership, on behalf of the Council, will be able to recover the costs of the provision of the insurance pursuant to the contract from the leaseholders. If this process was not carried out, the maximum Brent Housing Partnership could recover on behalf of the Council from each leaseholder in respect of the cost of the provision of insurance pursuant to the contract would only be £100.00 per annum.

- 6.2 Insurance services are Part A services under the Public Contracts Regulations 2006 (“the EU Regulations”). Because of this and the value of the contract (above the tendering threshold of £144,371), it was necessary to tender the contract in accordance with the EU Regulations. Under Brent’s Standing Orders, a 3-year contract will be a High Value Contract and as a result, Executive approval is required to award the contract.
- 6.3 In accordance with the Public Contracts Regulations 2006, award of contract can only take place after notification to tenderers of the identity of the preferred tenderer followed by a standstill period. Award of contract then takes place at the end of the standstill period. The standstill period has to be a minimum of 10 days, however here it will be around 6 weeks to enable the statutory consultation process with leaseholders to be completed.
- 6.4 The previous insurance arrangements originally expired on 31<sup>st</sup> March 2007. Due to the need to carry out statutory consultation, and the fact that the original tender process had to be discontinued, it became clear that the contract needed to be extended. There was no provision for extension in the original contract notice, and so a further 4 months cover was purchased. Under EU law this is treated as a new contract. It was originally assumed that this 4-month contract would be based on the same price as applied for the year up to 31<sup>st</sup> March 2007, which would mean a contract value of around £98,000 for the 4 months which is below the EU threshold. However it subsequently transpired that higher prices would apply, and as a result the 4-month contract is valued at around £157,000 which is just above the EU threshold for retendering. However as the decision to extend was taken on the basis of a genuine estimate of the contract value the risk of challenge is very low.
- 6.5 Members will note that there has been a breach of Standing Orders in relation to the use of evaluation criteria which were not those approved by the Executive. This breach was as a result of the tender process having been conducted by brokers on behalf of the Council and possibly inadequate communication with Council officers. The EU Regulations require tender evaluation to be undertaken on the basis of the published criteria advised to tenderers, and this is what was done. The Executive is asked to note and approve the new criteria (as set out in paragraph 3.8) which generally address the same issues as the criteria originally approved by the Executive, the

original “Ability to meet the requirements of the service specification” having been broken down into more detailed elements. The exception is the addition of “experience” and “financial standing”.

## **7.0 Diversity Implications**

7.1 No specific implications have been identified in the assessment.

## **8.0 Staffing/Accommodation Implications (if appropriate)**

8.1 None

## **9.0 Background Papers**

9.1 OJEU notices, invitation to tender

## **10.0 Contact Officers**

Richard Walsh Insurance Manager, Procurement and Risk Management,  
Finance and Corporate Resources, Room 5, Town Hall Annexe, Forty Lane,  
Wembley, Middlesex HA9 9HD, Tel: 020 8937 1163.

**DUNCAN McLEOD**  
**Director of Finance and Corporate Resources**

**ASPEN****More detailed analysis of tenders:*****Basis of Cover / Meeting the Criteria***

Price Fire and Perils basis

with LTA 3 yrs

with LTA 5 yrs

Sum insured / Excess

Leasehold £434,918,190

Storm Flood, Escape of Water, Impact own vehicle £100 each and every claim.  
 Malicious Persons £250 each and every claim.  
 Subsidence £2,500 each and every claim  
 £1,000,000 in the aggregate in respect of Fire

**ASPEN**terrorism premium in add £3,004.33  
£425,000393,125 plus terrorism £3,004.33 Total  
£396,129.33

**Sub excess reduced to £1K for selected properties**  
**no agg stop**

£1,000 each and every claim in respect of Subsidence,  
 £50 each and every claim in respect of Accidental Damage, all other claims Nil excess.

Extend of Cover

**Standard Policy wording**

Flexible Underwriting Approach

**YES / one rate per property**

IT and Data Exchange Capabilities

**Policy doc with 28 days of inception mid term within 10 days**

Experience of Underwriting in and commitment to the Public Sector

**Many years experience in this sector****References in pre qualification questionnaire**

RM and Risk Control resources

**Provide advise attend Risk Man if required rolling programme of surveys**

Financial and Economic Standing

**FSA AM Best A**

Claims Management Strategy

**Direct reporting**  
**24 hr helpline Can recommend contractors will settle direct to contractor on routine claims**  
**Nominated loss adjuster on all others**  
**Quarterly claims reports**  
**No claim form**

3 year Contract option to extend for 2 years

**quoted 3 yr contract**



POL £5mil

£5mil

Annual Adjustable Basis

Other Comments

**Subject to confirmed claims experience 5 yrs**

**limited to £350K per Building**

**Agreed Code of conduct to apply to unoccupied Properties**

**Unoccupied defined as not permanently lived in After 30 days excluding Mal Damage, Escape of water theft**

**Includes legal fees cover to repossess following occupation by squatters limit£10K**

**Excess applied per leaseholder. For Sub i.e. per property insured in a block**

**Adjustable no mid term unless major changes. Annual based on Pro rata or 50% as required terrorism premium in add £3,004.33**

**TENDERER B****More detailed analysis of tenders:*****Basis of Cover / Meeting the Criteria*****Tenderer B**

Price Fire and Perils basis

**£484,213.82**

with LTA 3 yrs

**£460,003.13**

with LTA 5 yrs

**£435,792.44**

Sum insured / Excess

Leasehold £434,918,190

<p>Storm Flood, Escape of Water, Impact own vehicle £100 each and every claim.  Malicious Persons £250 each and every claim.  Subsidence £2,500 each and every claim  £1,000,000 in the aggregate in respect of Fire</p>	
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Mortgage £ 5,276,196

£1,000 each and every claim in respect of Subsidence,  
£50 each and every claim in respect of Accidental Damage, all other claims Nil excess.

Extend of Cover

**Standard Policy wording**

Flexible Underwriting Approach

**YES / one rate per property**

IT and Data Exchange Capabilities

**Policy booklets will be provided**

Experience of Underwriting in and commitment to the  
Public Sector

**YES u/w since 1992**  
**42 LA / HA including 12 Lon B**  
**Provide cover to 100K policyholders**

RM and Risk Control resources

Will provide training to staff on policy terms.  
1/4 ly meetings . **Will mediate in disputed claims.**

Financial and Economic Standing

**FSA A+ AM Best**

Claims Management Strategy

**Use of Loss Adj. (Davies & Co)**  
**Claims Analysis Monthly via**  
**No claim form**  
**response to claims 5 days**  
**settlement cheques within 48hrs of agreement**  
**24hr helpline**

3 year Contract option to extend for 2 years

**Quote 3 yrs or 5 yrs**

POL £5mil

**£5mil**

Annual Adjustable Basis

**adjustment on annual basis**

Other Comments

**Including - trace of source of water escape  
legal fees to remove squatters**

**Unoccupany conditions 30days  
Increased x/s excluding some perils. May  
extend  
on request**

**Notice of change of Occupany clause**

**Includes Common areas clause  
Common areas cover % of leaseholder  
responsibility  
Index linked using RISC**

**OK for HH to carry our remedial work in  
Communal areas**

**Excess applied per leaseholder. For Sub  
i.e. per property insured in a block**

**TENDERER C****More detailed analysis of tenders:*****Basis of Cover / Meeting the Criteria***

Price Fire and Perils basis

with LTA 3 yrs

with LTA 5 yrs

Sum insured / Excess

Leasehold £434,918,190

Storm Flood, Escape of Water, Impact own vehicle £100 each and every claim. Malicious Persons £250 each and every claim. Subsidence £2,500 each and every claim £1,000,000 in the aggregate in respect of Fire	
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**Tenderer C**

**£397,124 net of APS see below  
plus Terrorism £5,178.76 Total £407,489.76**

Mortgage £ 5,276,196

£1,000 each and every claim in respect of Subsidence,  
£50 each and every claim in respect of Accidental Damage, all other claims Nil excess.

Extend of Cover

**standard Policy cover**

Flexible Underwriting Approach

**YES / one rate per property**

IT and Data Exchange Capabilities

**Policy to be provided fro each tennant**

Experience of Underwriting in and commitment to the Public Sector

**Insure approx 160 housing Assoc and Public sector Organizations  
Specialist in Social Housing Insurance  
Can provide References**

RM and Risk Control resources

Financial and Economic Standing

**Part of Primary Group FSA**

Claims Management Strategy

**Claims dealt with By Primary General  
Report as requested Annual/1/4ly or monthly  
Meeting with Claims manager  
Can agree Delegated Authority limit  
Ded Claims claims line**

3 year Contract option to extend for 2 years

POL £5mil

£10mil

Annual Adjustable Basis

**No condition of Average**  
**All Risks wording**  
**Existing Building JCT contract extension**  
**Full theft cover**

Other Comments

**Have not included £10K legal fees following occupation by squatters - May be able to include with supply of wording - May be Additional premium**

**Any one property limit £10mil**

**Quote includes an Advanced Profit Share (APS) 90% - repayable if loss ratio 75% or above in first 24months**

NB Qualification Questionnaire not fully completed

1% early payment discount available for payment with 5 working days of inception

**Subject to Survey**

**Unoccupany Warranty**

**TENDERER D****More detailed analysis of tenders:*****Basis of Cover / Meeting the Criteria***

Price Fire and Perils basis

with LTA 3 yrs

with LTA 5 yrs

Sum insured / Excess

Leasehold £434,918,190

Storm Flood, Escape of Water, Impact own vehicle £100 each and every claim. Malicious Persons £250 each and every claim. Subsidence £2,500 each and every claim £1,000,000 in the aggregate in respect of Fire	
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**Tenderer D**

Includes Terrorism

L'Hold £472,973.53 (\*) Mort. £ 18,469.90

Total £491,443.43

Mortgage £ 5,276,196

£1,000 each and every claim in respect of Subsidence,  
£50 each and every claim in respect of Accidental Damage, all other claims Nil excess.

Extend of Cover

**Standard policy cover**

Flexible Underwriting Approach

**YES / one rate per property**

IT and Data Exchange Capabilities

**Will provide booklet for each tenant**

Experience of Underwriting in and commitment to the Public Sector

**YES Admin 270 LA HA policies**

RM and Risk Control resources

**Will provide a 24hr helpline**

Financial and Economic Standing

**FSA A+ S & P A AM Best**

Claims Management Strategy

**Will appoint a claims handler  
Loss Adj. Davies & Co. All claims in excess of £5K  
Management Info. will be provided on 1/4ly basis. Approved Contractor network.  
response to claims 5 days  
Claims reported via LA/ ALMO**

3 year Contract option to extend for 2 years

**quoted 3 yrs plus 2 yr option to extend**

POL £5mil

**£2mil**

Annual Adjustable Basis

Will adjust premium on pro rata basis  
at yr end

Other Comments

**Subject to Surveys**

**unoccupany exclusion 30days x MD Water  
theft. May allow 60days on request  
Have provided a gross rate if LB of B  
retain comm/service charge**

**Can quote to include AD cover  
at add .05 per mille**

**SI will be index linked**

NB IPT would be payable on gross premium  
see Tender

**theft only by FVEE if sub let**

**Sum insured will be index linked**

**Includes Terrorism**