

	<p style="text-align: center;">Cabinet 13 March 2023</p>
	<p style="text-align: center;">Report from the Corporate Director, Resident Services</p>
<p style="text-align: center;">Authority to Tender Contract for Leasehold Property Insurance</p>	

Wards Affected:	All Wards
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Appendix 1 – Equalities Impact Assessment
Background Papers¹:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	<p>Kate Daine Head of Housing and Neighbourhoods 020 8937 5440 Kate.daine@brent.gov.uk</p> <p>Esther Abe Insurance Manager 020 8937 2789 Esther.abe@brent.gov.uk</p>

1.0 Purpose of the Report

- 1.1 This report concerns the future provision of the council’s Leasehold Insurance Services contract. This report requests approval to invite tenders in respect of Leasehold Property Insurance to start on the 01st November 2023.

2.0 Recommendation(s)

That Cabinet:

¹ [Insert a description of relevant background papers. There is a statutory requirement to include a list of those documents relating to the subject matter on which the report is based and which have been relied on to a material extent in preparing the report. These might include previous reports and records of decisions on the same matter. These papers are open to public inspection, unless they contain exempt or confidential information. It is not necessary to make reference to any published works where it is reasonable to expect that a member of the public could make their own arrangements to get a copy of the document.]

- 2.1 Approves inviting tenders for Leasehold Property Insurance on the basis of the pre - tender considerations set out in paragraph 3.5 of the report.
- 2.2 Notes that the Council will undertake consultation with leaseholders and Recognised Tenants Associations pursuant to Section 20 of the Landlord and Tenant Act 1985 (as amended), as set out in paragraphs 7.1 – 7.7.
- 2.3 Approve Officers evaluating the tenders referred to in 2.1 above on the basis of the evaluation criteria set out in paragraph 3.5 (vi) of the report.
- 2.4 Delegate authority to the Corporate Director, Resident Services in consultation with the Lead Member for Housing, Homelessness and Renter Security to award the contract for Leasehold Property Insurance for a term three years with an extension of two years.

3.0 Detail

- 3.1 The current contract for Leasehold Property Insurance is due to end on 31st October 2023. In the circumstances it is proposed to procure replacement Leasehold Property Insurance to cover the following perils:
 - Storm and flood
 - Escape of water or oil from fixed systems
 - Riot and civil commotion
 - Malicious damage
 - Theft or attempted theft
 - Subsidence heave or landslip
 - Impact
 - Falling trees or aerials
 - Accidental damage
 - Property Owners Liability
 - Terrorism
- 3.2 Officers also consider that the Leasehold Property Insurance should cover the provision of accidental damage cover for properties that are let or sub-let.
- 3.3 The procurement of insurance policies can be complex and the use of brokers is common in this area across both the public and private sectors. Marsh Limited have therefore been engaged to provide professional support, access specialist limited markets and input into the tender process. Marsh Ltd are the Council's Risk and Insurance adviser.
- 3.4 Aligning the presentation of Brent's risk profile favourably with market expectations will put the Council in a position to benefit from keen premium rates, terms and conditions. On this basis, it is intended to request tenders on the basis of a 3 year initial contract period with an option to extend to a further 2 years at the Council's discretion.

3.5 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations for the procurement of a contract for Leasehold Property Insurance have been set out below for the approval of the Cabinet.

Ref.	Requirement	Response	
(i)	The nature of the services	Leasehold Property Insurance	
(ii)	The estimated value.	£1.1 million per year (based on figures 22/23) Total contract value £5.5 million	
(iii)	The contract term.	3 years plus 2 year extension option	
(iv)	The tender procedure to be adopted.	Open Tender Process	
v)	The procurement timetable.	Indicative dates are:	
		Authority to Tender Cabinet approval	13 March 2023
		Section 20 – Stage 1 Notice of Intention to be sent to leaseholders / RTAs	20 March 2023
		Adverts placed	10 April 2023
		Invite to tender	10 April 2023
		Section 20 – Stage 1 deadline for written observations from leaseholders / RTAs	24 April 2023
		Deadline for tender submissions	17 May 2023
		Panel evaluation	23 May – 23 June 2023
		Report recommending interim Contract award circulated internally for comment	3 July 2023
		Interim Authority to Award under delegated powers	4-14 July 2023

Ref.	Requirement	Response
		having regard to Section 20 consultation
		Section 20 – Stage 2 Notice of Proposal / Estimates to be sent to leaseholders / RTAs
		17 July 2023
		Section 20 – Stage 2 deadline for written observations from leaseholders / RTAs
		22 Aug 2023
		Section 20 – Stage 2 Period for Council's responses to individual leaseholders / RTAs
		23 Aug – 12 Sept 2023
		Authority to Award having regard to Section 20 consultation
		20 Sept 2023
		Key Decision Call-in Period
		21-27 Sept 2023
		Standstill Period
		21 Sept - 2 Oct 23
		Contract Mobilisation
		3 – 31 Oct 2023
		Contract start date
		1 Nov 2023
(vi)	The evaluation criteria and process.	<p>The Open Procedure is the preferred tender Procedure as there are limited number of suppliers in the market.</p> <p>There will be no shortlisting of providers, but all providers will be required to complete a selection questionnaire demonstrating that they meet the Council's financial standing requirements, technical capacity, technical expertise, industry and regulatory compliance.</p> <p>At tender evaluation stage, the panel will evaluate the tenders against the following criteria:</p> <ul style="list-style-type: none"> • Price 60% • Quality 30% • Social Value 10%
(vii)	Any business risks associated	There is a limited supplier market for Leasehold Property Insurance. There is a risk that the tender may

Ref.	Requirement	Response
	with entering the contract.	result in no bids being received.
(viii)	The Council's Best Value duties.	A competitive procurement process will be undertaken through inviting bids from the open market and awarding the contract based on Most Advantageous Tender
(ix)	Consideration of Public Services (Social Value) Act 2012	Social Value will be included and given a weighting of 10% of the overall evaluation criteria.
(x)	Any staffing implications, including TUPE and pensions.	None
(xi)	The relevant financial, legal and other considerations.	See sections 4 and 5 below for finance and legal comments.
(xii)	Sustainability	A question under Cleaner and Considerate Brent social value theme will be included
(xiii)	Key Performance Indicators / Outcomes	Appropriate Key Performance Indicators / Outcomes will be included in the Contract.
(xiv)	London Living Wage	The Contract will require the payment of the London Living Wage to London based staff working on the contract.
(xv)	Contract Management	A contract manager will be appointed and appropriate contract management provisions will be included in the Contract.

3.6 Cabinet is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

4.0 Financial Implications

4.1 The total estimated value of the leasehold property insurance contract is £5.5m over 5 years or £1.1m on average per annum, at today's prices. Contract costs will be adjusted accordingly to reflect leasehold property numbers, claims experience and annual indexations to the contract.

4.2 The annual cost of the contract is incurred in the Housing Revenue Account (HRA) and is fully recoverable through service charges to leaseholders,

resulting in a balanced position for the Council.

5.0 Legal Implications

- 5.1 The estimated value of the Contract is above the threshold for Services under the Public Procurement Regulations 2015 (the “PCR 2015”) and the procurement is therefore governed by the PCR 2015.
- 5.2 The procurement is subject to the Council’s own Standing Orders and Financial Regulations in respect of High Value Contracts given the procurement is valued at £5.5m. For High Value Contracts, the Cabinet must approve the pre-tender considerations set out in paragraph 3.3 above (Standing Order 89) and the inviting of tenders (Standing Order 88).
- 5.3 In accordance with Recommendation 2.4, once the tendering process is undertaken, Officers will report to the Corporate Director, Resident Services explaining the process undertaken in tendering the Contract and recommending award.
- 5.4 As this procurement is subject to the full application of the PCR 2015, the Council must observe the requirements of the mandatory minimum 10 calendar day standstill period imposed by the PCR 2015 before the Contract can be awarded. The requirements include notifying all tenderers in writing of the Council’s decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council’s award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the Contract may commence.
- 5.5 Given the nature of the service, the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE 2006) are unlikely to apply to the current proposal
- 5.6 In order to be able to demand service charges of over £100.00 towards the costs of the insurance services from any one leaseholder, the Council must follow a consultation process under Section 20 of the Landlord and Tenant Act 1985 (as amended) (“LTA 1985”) or obtain dispensation from the First-Tier Tribunal (Property Chamber). Officers have concluded that it is more appropriate to pursue a Section 20 consultation process.
- 5.7 Given that this is a Qualifying Long-Term Agreement (QLTA) for the purposes of Section 20 of the LTA 1985, the consultation procedure set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (“the 2003 Regulations”) must be followed. In light of the value of the contract, Schedule 2 of the 2003 Regulations is applicable and public notice is required to be given via [Find a Tender \(find-tender.service.gov.uk\)](http://find-tender.service.gov.uk).

- 5.8 The purpose of the Section 20 consultation procedure is for leaseholders and Recognised Tenants Associations (“RTAs”) to be kept informed at the key stages of the Council’s entering into the new long-term Leasehold Property Insurance contract for Brent, and to permit leaseholders / RTAs to make written observations within stipulated time periods, to which the Council is required to have regard.
- 5.9 In light of the high value of the contract, although leaseholders / RTAs may encourage insurance providers to apply through the online Find a Tender Service, they are not entitled to nominate such providers to the Council directly themselves as part of the consultation process.

6.0 Equality Implications

- 6.1 The public sector equality duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 6.3 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary. Cabinet is referred to the contents of this report for information, in particular the Equality Analysis at Appendix 1.
- 6.4 As this paper is seeking to secure a new insurance provider there are no negative equalities implications of this decision. However, as detailed in the Equality Analysis, steps will be taken to ensure the service provider, provision and the tendering process aligns with the Council’s responsibilities within the public sector equality duty.

7.0 Consultation with Ward Members and Stakeholders

Section 20 Leaseholder Consultation

- 7.1 As stated at paragraphs 5.6 - 5.9 above, the Council is required to consult with leaseholders and RTAs prior to entering into QLTA's.
- 7.2 The statutory consultation with the Council's leaseholders and any RTAs will take place in two stages, the dates for which are set out in the timetable at paragraph 3.3 above and consist of:
- First Stage - Notice of Intention
 - Second Stage - Notice of Proposal / Estimates
- 7.3 Both notices are to be completed in accordance with Schedule 2 to the 2003 Regulations.

First Stage

- 7.4 The purpose of the Notice of Intention is for the Council to notify leaseholders and RTAs of its intention to enter into a QLTA for Leasehold Property Insurance, the reasons why this is necessary, the services which will be provided (in general terms), etc and to invite written observations on the same, to which the Council is required to have regard.
- 7.5 The Council is required to have regard to any such observations prior to making any interim authority to award a contract.

Second Stage

- 7.6 The purpose of the Notice of Proposal / Estimates is to provide information about the proposed insurance contract, including the name of every party involved, leaseholders' estimated contributions (if known), etc. The Notice of Proposal / Estimates should also include a copy of the proposal itself, or the option to inspect this, again inviting written observations from leaseholders / RTAs in response to the notice, to which the Council is required to have regard.
- 7.7 The Council is required to have regard to any such observations prior to making a final decision to award the Leasehold Property Insurance contract.

8.0 Human Resources/Property Implications (if appropriate)

- 8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.
- 8.2 The contract is to be managed by the Brent Insurance Team

9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might

improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

- 9.2 There is a 10% evaluation score associated with the social value themes selected. Providers will be asked how they plan to provide social value through this contract.

Report sign off:

Peter Gadsdon

Corporate Director, Resident Services.