NORWICH
City Council

Committee name: Cabinet

Committee date: 08/02/2023

Report title: Procurement of Leaseholder Insurance

Portfolio: Councillor Harris, Deputy leader and cabinet member for social housing

Report from: Head of legal and procurement and Interim Head of Housing and Community Safety

Wards: All wards

OPEN PUBLIC ITEM

KEY DECISION

Purpose

The purpose of this report is to seek Cabinet's approval of the procurement of leaseholder insurance services following withdrawal of the existing provider.

Recommendation:

To enter a contract for the provision of leaseholder insurance and delegate authority to the Executive Director for Communities, in consultation with the deputy leader and cabinet member for social housing, to award the contract to the most economically advantageous tenderer or, if no tender is received, to utilise an emergency procurement route to award the contract on an emergency basis.

Policy framework

The council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

This report meets the corporate priorities for people live independently and well in a diverse and safe city and that Norwich City Council is in good shape to serve the city

Report details

1. Leaseholder insurance covers residential leasehold properties for buildings material damage. There is a requirement, under the leases entered into by the leaseholders, that this cost is borne by the leaseholder rather than the council. Contents insurance is to be sourced privately by the leaseholders.

2. In October 2021, the Council considered a report relating to its leaseholder insurance contract. The provider at that time, Ocaso, was withdrawing from the market and it was necessary to seek to procure a new provider of leaseholder insurance. Following Cabinet approval, a new provider was sought and a contract was entered into with Avid Insurance on a 3 year basis, with the option to extend for a further 2 years.

3. On 16 January 2023, the Council was notified by its insurance brokers that Avid was withdrawing from the leaseholder market as of 1 April 2023, leaving the Council without a leaseholder insurance provider.

4. The current public sector leaseholder provider market is now just two providers: Aspen and Protector. 3 major providers have withdrawn, primarily for 3 reasons:

    a. Historic under-pricing; premiums have not been keeping pace with claims, meaning insurers have been incurring losses;

    b. Low excesses, compounding insurers losses in the event of a claim;

    c. The issues highlighted in the market by Grenfell, and concerns on the part of insurers regarding the potential for catastrophic losses

5. Since the Council was notified of the withdrawal of Avid, it has worked closely with its insurance brokers and legal team to identify a way forward that is compliant with public procurement procedures in a challenging situation.

6. The Council's insurance brokers have indicated that there is the potential that with increased business potentially available, private sector property insurers may be more attracted to the public social housing insurance market at this stage. Further, any potential insurance provider is likely to favour a longer term contract (such as a 3 year contract with extension options) rather than a short-term, 12 month arrangement due to the level of certainty it provides and the time invested in preparing a bid.

7. Procurement options were carefully assessed:

    a. The timing of the announcement meant that there is not sufficient time for the Council to go through a full, standard open tender process compliant with the public contract regulations;

    b. Potential frameworks were explored, however to add further complexity to the matter, further competition of the Council's insurance broker would have been required to access the relevant frameworks.

    c. To utilise the emergency options available under public contract regulations (as set out in procurement policy note 01/21, procurement in an emergency)

8. Utilising the advice in the procurement policy note, the Council established the use of an accelerated procurement procedure as a legitimate way through which the insurance can be procured in a competitive way, seeking to achieve best value for the Council's leaseholders, whilst remaining compliant with procurement regulations.

9. On 23 January, the Council issued an Invitation to Tender (ITT) for Leaseholder insurance on a 3 year basis, with the option of extending for 2 further years. The policy excess for leaseholders has remained at £100 as in previous years, albeit it may be that given the risks highlighted above the market seeks a higher premium level. The ITT was advertised to the public sector providers and advertised to private sector property insurance companies that may be interested in entering the market to widen the potential value.

10. A significant concern in undertaking the procurement is that overall, insurance premiums in the property sector have been rising, and the reduction in the market may result in an increase in the costs of insurance. Whilst this cost is passed on to leaseholders, this risks putting further pressure on residents during the cost of living crisis.

11. It is hoped that by widening the potential bidders to the private sector market may increase the competitiveness of bids; further, the Council has increased the premium placed on bid price in the tender evaluation so that it will be evaluated based on 70% price and 30% coverage and claims handling basis.

12. Tenders are due back to the Council on 8 February 2023. These will then be evaluated and the contract awarded on 24 February.

13. There is a risk that no bid is received through the accelerated open tender process. If that is the case, the Council will then seek to use the emergency procedure provided for in public procurement regulations. This allows that in extreme urgency the Council may directly award the contract to one supplier. In this scenario, the Council would be able to negotiate directly with one company.

14. **Consultation**

15. When tendering leaseholder contracts, the Council is usually obligated to consult with leaseholders prior to entering the contract.

16. Due to the short notice the Council has been given of the need to re-tender this contract, there is not sufficient time to undertake the normal leaseholder consultation period. The law provides that in this urgent situation, the Council can seek tribunal consent to not undertake consultation with leaseholders which is currently being progressed. Tribunal consent can (and usually is) applied retrospectively in urgent situations.

Implications

Financial and resources

17. Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan 2022-26 and budget.

18. The costs of leaseholder insurance are fully recharged to leaseholders. There are therefore no financial implications to the Council of this decision.

19. There is a risk that due to contractions in the market, the costs of this insurance could increase, which in turn places pressure on to leaseholder budgets. The Council will, as required, offer financial support and assistance to leaseholders who are concerned about increased budgetary pressure.

Legal

1. Termination of the contract by Avid on a short notice period has left a limited amount of time in which to reprocure these services. However, regulation 27(5) of the public contract regulations does allow a shorter 15 day timescale for the receipt of tenders where the usual timescales for an open procedure would be impracticable due to the urgency. The Council is working with its procurement team to manage that process.

Statutory considerations

Consideration	**Details of any implications and proposed measures to address:**
Equality and diversity	None
Health, social and economic impact	No direct implications, albeit as above this could result in an increased premium for leaseholders. The Council will offer support and assistance as required.
Crime and disorder	None
Children and adults safeguarding	None
Environmental impact	None

Risk management

Risk	**Consequence**	**Controls required**
That a leaseholder insurance provider cannot be identified	The Council is failing in its obligation to provide leaseholder insurance	The Council has assessed the available options for a compliant process. An open tender is being conducted at this stage to obtain the most economically advantageous outcome but if required, an urgent negotiated procedure with one supplier will be undertaken.

Risk	Consequence	Controls required
The costs of leaseholder insurance will rise due to limited market options	Leaseholders suffer budgetary pressure	The Council is seeking to undertake an open tender to attract market competition. The Council will provide support if leaseholders are under pressure.

Other options considered

20. The options considered are set out in paragraph 7 above.

Reasons for the decision/recommendation

21. The Council is under an obligation to provide leaseholder insurance. Due to withdrawal of the current supplier, the Council is required to urgently seek an alternative route through which to procure the insurance service.

Background papers: None

Appendices: None

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