

Decision Report – Cabinet decision

12th February 2018

Retendering for insurance cover for all external policies

Cabinet Member(s): Cllr David Hall– Cabinet Member for Resources and Economic Development

Division and Local Member(s): All (if county wide)

Lead Officer: Kevin Nacey, Director of Finance, Legal and Governance

Authors: Martin Gerrish – Strategic Manager, Financial Governance, ECI and Corporate Services and Heather Hall, Service Manager - Insurance

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| | Seen by: | Name | Date |
|--------------------------------|--|------------------------|-------------|
| | County Solicitor | Honor Clarke | 8/1/2018 |
| | Monitoring Officer | Julian Gale | 8/1/2018 |
| | Corporate Finance | Kevin Nacey | 29/12/2017 |
| | Human Resources | Chris Squire | 10/1/2018 |
| | Property / Procurement / ICT | Richard Williams | 10/1/2018 |
| | Senior Manager | Kevin Nacey | 29/12/2017 |
| | Local Member(s) | Not applicable | |
| | Cabinet Member | Councillor David Hall | 15/1/2018 |
| | Opposition Spokesperson | Councillor Simon Coles | 15/1/2018 |
| | Relevant Scrutiny Chairman | Councillor Tony Lock | 15/1/2018 |
| Forward Plan Reference: | FP17/08/14 | | |
| Summary: | <p>Cabinet is asked to approve the appointment of the successful tenderers following an OJEU procurement process for a wide range of insurance covers. This has been a substantial exercise in terms of information gathering and specification of requirements.</p> <p>Somerset County Council's external insurance covers (premium) are due for renewal from 1st April 2018, and will be awarded for a period of up to 7 years at our discretion.</p> <p>The need for a tendering process has given officers the opportunity to test the market for a variety of options such as contract length and deductibles (excesses) in order to provide the best value for money options.</p> | | |

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| <p>Recommendations:</p> | <p>That the Cabinet approves that:-</p> <ol style="list-style-type: none"> 1. Agrees the case for applying the exempt information provision as set out in the Local Government Act 1972, Schedule 12A and therefore to treat the attached Appendix A in confidence, as it contains commercially sensitive information, and as the case for the public interest in maintaining the exemption outweighs the public interest in disclosing that information. 2. Subject to the approval recommendation (1) above, agree to exclude the press and public from the meeting where there is any discussion at the meeting regarding exempt or confidential information. <p>Exclusion of the Press and Public</p> <p>To consider passing a resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to exclude the press and public from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, within the meaning of Schedule 12A to the Local Government Act 1972:</p> <p>Reason: Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <ol style="list-style-type: none"> 3. The successful tenderers for each Lot as set out in Appendix A are appointed to provide insurance cover. 4. That authority is delegated to the Director of Finance, Legal and Governance to complete any necessary steps to complete the procurement and contractual process and put in place insurance cover from 1st April 2018, including the possible contract extensions for the periods set out in this report and its appendix. |
| <p>Reasons for Recommendations:</p> | <p>The tender bids received are commercially confidential and need to be treated as such.</p> <p>The scoring mechanism was set out in the tender documentation and has been strictly followed throughout the evaluation process, resulting in proposed awards that best meet the County Council's specification for each Lot.</p> <p>There is a critical need to ensure that insurance cover is in place for 1st April 2018.</p> |

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| <p>Links to Priorities and Impact on Service Plans:</p> | <p>Insurance cover is linked to County Plan statement “We will continue to work within our income”. Insurance is required to protect the County Council’s financial interests, and to ensure that critical funds are not lost to service delivery.</p> <p>The level of the Insurance Fund and the probable calls upon it are taken into consideration when the Director of Finance presents the report on the “robustness of the estimates” and the “adequacy of the reserves and balances” to Full Council in the budget setting and MTFP round.</p> |
| <p>Consultations and co-production undertaken:</p> | <p>The tendering for new insurance cover does not have a direct impact on any service users and therefore no such formal consultation was required.</p> <p>The insurance tender process was taken to the Strategic Opportunities Board and to the Schools Forum, both of which were supportive of the approach being taken.</p> |
| <p>Financial Implications:</p> | <p>The annual premium costs of each proposed insurance cover are set out in Appendix A, together with a comparison with the current costs of insurance premiums for 2017/2018.</p> <p>The costs of insurance are managed through an earmarked reserve called the Insurance Fund. This holds balances against current and future insurance claims that the County Council may need to pay out (some claims will take more than a single year to resolve). The adequacy of the Insurance Fund is regularly checked by our brokers’ actuarial review.</p> <p>Insurance costs, including external premiums, are recharged to budgets held by frontline services in accordance with CIPFA guidance. This allows the Insurance Fund to be topped up, to ensure that it is adequate to meet expected future costs.</p> |
| <p>Legal Implications:</p> | <p>“Exempt information” is defined by Section 100 of the Local Government Act 1972, by Schedule 12A to that Act. The Council’s Constitution (Access to Information in relation to Decision-making) sets out the relevant categories for information to be treated as exempt information.</p> <p>It is recommended that the press and public should be excluded during consideration of Appendix A because its discussion in public would be likely to lead to the disclosure to members of the press and public present of information in the following categories prescribed by Part 1 of Schedule 12A to the Local Government Act 1972 (as amended): paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information). Since it is considered that, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public</p> |

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| | interest in disclosing the information, in that disclosure would be to the detriment of the Council's ability properly to discharge its fiduciary and other duties as a public authority. | | | | | |
| HR Implications: | None | | | | | |
| Risk Implications: | Not having any external insurance cover at all is an unacceptable financial risk. | | | | | |
| | Decisions about insurance cover are intrinsically linked to risk management and risk appetite. The tender process has been undertaken with a view to reduce risks across the self-insured part of the Insurance Fund, and to protect the County Council's reserves. | | | | | |
| | In coming to the recommendations for Cabinet in Appendix A, officers have carefully considered the tender bids against our known insurance risks and claims history. | | | | | |
| | There is a risk decision to be taken as to the levels of deductibles (excesses) and cover provided, against the costs of premium incurred. | | | | | |
| | Likelihood | 3 | Impact | 3 | Risk Score | 9 |
| Other Implications (including due regard implications): | <p><u>Equalities Implications</u></p> <p>It has been agreed with the Equalities Manager that an Equalities Impact Assessment is not required for this decision, as there are no relevant implications.</p> | | | | | |
| Scrutiny comments / recommendation (if any): | Not applicable. | | | | | |

1. Background

- 1.1. Somerset County Council provides a wide range of services to the public; it has a large workforce and engages with a large number of partner activities to achieve its vision. As a result, it is exposed to a wide variety of risks. Insurance cover is one of the key measures that the County Council puts in place in order to mitigate the larger financial risks.
- 1.2. Our major external insurance covers are due to expire on 31st March 2018. Therefore, a tendering exercise has been carried out by the Commercial and Procurement Team, and has been run through the EU procurement processes. This has been a substantial exercise in providing our full insurable requirements and specifications to the market place, along with detailed information as to our claims history and asset base (e.g. properties owned or used, workforce employed, vehicles, policies in place). Exercises have been undertaken to engage with the market, including a bidder's day, in order to generate interest from what is a limited list of potential insurers. Over 130 specific questions have been answered from prospective insurers as part of the tendering process. Our

brokers have also been involved in order to provide advice and to assess the results. The closure date for bids was 15th December 2017, and the Insurance Team has been busy reviewing and scoring the bids against a pre-determined scoring matrix in order to determine the best value for money.

The following insurances have been tendered for:-

Property Combined
Property Owners
Works in Progress
Crime with Fidelity Guarantee
Combined Liability (Public Liability and Employers Liability)
Motor Fleet – comprehensive cover
Personal Accident and Travel
Engineering Inspection
Officials Indemnity (OI) and Professionals Indemnity(PI)

[N.B. The County Council has terrorism cover, which is renewed annually. This is an extremely limited market and does not ordinarily respond to a tender process].

- 1.3.** Along with many other local authorities, Somerset does not operate a “ground up” cover for the majority of its insurances. This means that smaller value claims are managed in-house by the Insurance Team, and these risks are not insured against with an external provider. In-house management for our smaller claims is preferable because it is more cost-effective, and also provides a greater level of control over the claims handling process. Costs of running the in-house provision, as with the external insurance premiums, are managed from year to year through our Insurance Fund, and costs are recharged to services.

Typically at any point in time, the Insurance Team is self-handling between 200 and 300 claims, of which 75% are public liability (highways claims), 10% employee claims, 10% motor claims and 5% all others. The key indicator for our internal claims handling service is the repudiation rate – the number of claims that are successfully disproved without making any payment to the claimant. Our repudiation rate is invariably over 90%, which is slightly higher than the local authority average. In May 2017, an independent audit assessment on behalf of our brokers rated our internal performance at 93%, which was despite some staff vacancies within the team (now filled) and the implementation of a new dedicated insurance IT system (now completed).

- 1.4.** External insurance cover is therefore very much for larger scale financial risks only, where the costs of claims would be impossible for the County Council to withstand from its own general reserves. These would include large scale or serious accidents where the County Council was found to be at fault, perhaps with fatalities or life-changing injuries, or for major loss of property such as County Hall.

2. Options considered and reasons for rejecting them

- 2.1.** Not having any external insurance cover at all is an unacceptable financial risk. The more considered debate is the level of deductibles (excesses) that the County Council includes within its external cover. There is a trade-off between the amount of risk the County is willing to accept, set against the amount it is

willing to pay for external insurance cover. The lower the deductible, the higher the premium will cost.

Historically, the County Council has had relatively high levels of deductibles meaning that its annual insurance premium costs are probably lower than the average, but that it will meet all the costs up to the deductible limit itself, so potentially exposing itself to more risks. Therefore, the opportunity has been taken during this tender process to test the market at both the existing deductibles and at a lower limit to reduce our risk exposure.

By way of example, bidders were asked to provide quotes for both Motor Fleet and Public Liability at £250,000 and £1,000,000 deductibles per claim, and Officers Insurance and Professional Indemnity at £100,000 and £1,000,000 deductibles per claim.

Prices quoted at each level and officer recommendations are included in Appendix A.

- 2.2. A key option that was considered during the tender process was contract length. Officers wanted the tender to provide the maximum flexibility for the County Council over the coming years, particularly as the County Council continues to change, e.g. its delivery mechanisms, and dependant on the successful insurers' performance. In going out to tender, a decision was taken to have a contract for 3+2+2 years, with the break clauses entirely at the County Council's discretion. It was not felt prudent to have a longer initial contract, and benchmarking figures suggests that other local authorities have adopted a similar approach of typically 3-4 years.
- 2.3. The insurance market for local authorities is quite limited, and not all potential insurers are willing to quote for every insurance cover that the County Council required. Therefore, to avoid excluding insurers and limiting our options, the tender was split into 9 "Lots", (with options for different deductibles in some Lots) allowing tenderers to bid for any number where they wished to provide a service, with potential discounts for multiple awards.
- 2.4. Should occasion arise to call on our external insurance cover, it will inevitably be because a potentially significant incident has arisen. It will therefore be of great importance that the external insurer is able to respond to the highest possible standards. Therefore, with the agreement of the Director of Commercial and Procurement, it was agreed that the tender bids would be scored 60% price and 40% quality, instead of the usual 70/30 split. This scoring requirement was made absolutely clear to the prospective insurers in the tendering documentation.

3. Background Papers

- 3.1. None

Brief Outline of each insurance cover

Property Combined

Building and contents cover for properties owned by SCC or for which they are responsible (including schools). Standard perils include fire, flood, theft, vandalism etc.

Property Owners

Commercial property insurance – owned by SCC and leased to a tenant. Similar perils as above. Minimal excess as there is a tenant (avoiding risk).

Works in Progress

Buildings in the course of construction or improvement, including site security.

Crime with Fidelity Guarantee

Employee fraud or dishonest acts cover.

Combined Liability (Public Liability and Employers Liability)

Employers liability covers when the employee proves that SCC as an employer has failed in their duty of care (e.g. accidents in the workplace)

Public liability covers when the claimant proves that SCC has failed in their duty or have been negligent and caused the claimant to suffer loss or damage (e.g. a tyre hitting the kerb).

Motor Fleet – comprehensive cover

Standard comprehensive motor policy for SCC employees driving our vehicles or hire vehicles for work purposes.

Personal Accident and Travel

School journeys and business travel policy, which covers injury and loss of personal items.

Engineering Inspection

To carry out the inspections under our statutory duty for plant and equipment on SCC premises, e.g. lifts.

Officials Indemnity (OI) and Professionals Indemnity (PI)

Professional indemnity covers a breach of professional duty due to any neglect, error or omission. This applied where SCC is providing a paid service to others.

Officers indemnity covers where SCC are obliged to pay compensation for financial loss by an error committed by an employee.