

WELWYN HATFIELD BOROUGH COUNCIL
CABINET –7 MARCH 2023
REPORT OF THE EXECUTIVE DIRECTOR (FINANCE AND TRANSFORMATION)

LEASEHOLD BUILDINGS INSURANCE TENDER – REQUEST FOR DELEGATED AUTHORITY

1 Executive Summary

- 1.1 In June 2019 the Council entered into a 5 year long-term agreement (LTA) with Avid Insurance Services for the provision of buildings insurance for sold leasehold properties, the majority of which are former Council owned flats purchased under the Right to Buy (RTB) scheme.
- 1.2 In January 2023 the Council was advised that Avid were unlikely to be able to renew the policy on 24 June 2023 for the final year of the LTA and so a tender process is being undertaken to source a new provider if Avid are unable to continue with the LTA, alongside a Section 20 leaseholder consultation.
- 1.3 This report provides details of the procurement process and the need for an expeditious decision to award the contract to be made outside of timetabled meetings.

2 Recommendation

- 2.1 That Cabinet delegate the decision to award the contract for the provision of leasehold properties' buildings insurance to Executive Member (Planning and Resources) in consultation with the Executive Director (Finance and Transformation).

3 Explanation

- 3.1 Under the terms of the RTB leases, the Council has a legal obligation to insure the properties concerned, though the premium cost may be recharged to the leaseholder. As mentioned above, a 5 year LTA was therefore entered into in 2019 with Avid Insurance Services.
- 3.2 Avid are a managing general agent (MGA) which means they act as an intermediary between the insured and the insurer, undertaking many functions typically carried out by the insurer, which in this instance is a company called Accelerant.
- 3.3 We were advised that Accelerant, referred to as the capacity provider, had given Avid notice in December 2022 that they would be withdrawing from the leasehold

property insurance market and were not renewing policies after 23 March 2023. At the time of writing, Avid are therefore looking for an alternative capacity provider but there is no guarantee that they will be able to source one, or that terms will be maintained if that happens. This therefore may constitute a break of the LTA, allowing the Council to place the business elsewhere.

- 3.4 We have also been advised by our insurance broker, Marsh Ltd, that several other insurers have withdrawn from this market leaving very few to quote for our business, with many local authorities in the same position, looking for cover. It was therefore decided that a tender process would need to be started as soon as possible, as a Section 20 leasehold consultation would also need to be carried out alongside it.
- 3.5 As another long-term agreement will be sought (3 years with optional 2 year extension), the value of the contract is likely to exceed £1m. A Cabinet decision would therefore be required to award the contract, however the timescales involved in the process do not allow for the matter to be brought to a scheduled meeting. Delegation of the award decision is therefore required to ensure the best possible chance of cover being in place by the end of the current policy year, 24 June 2023.

Implications

4. Legal Implication(s)

- 4.1 Under the leases which it has granted, the Council has a legal obligation to insure the properties concerned so failure to do this would result in breach of covenant.
- 4.2 The estimated contract value is above the relevant procurement threshold and, therefore, the procurement process will need to be carried out in accordance with The Public Contracts Regulations 2015, as well as the council's Contract Procedure Rules.
- 4.3 Under Section 20 of the Landlord and Tenant Act 1985, where the council is proposing to enter into a qualifying long term agreement it must either carry out consultation as specified in section 20, or obtain dispensation from the consultation requirements. Failure to comply with the requirements will limit recovery of costs to £100 per leaseholder per year.
- 4.4 Because the contract is one which must be advertised, for the purposes of The Public Contracts Regulations 2015, it is the 2-stage (rather than the 3-stage) s20 consultation which will apply.
- 4.5 To obtain dispensation from the s20 consultation requirements the council will need to apply to the First Tier Tribunal for dispensation and be successful in obtaining a dispensation.

5. Financial Implication(s)

- 5.1 The engagement of an insurer has no financial implications for the Council as the premium costs are recharged to leaseholders. It is likely though that the charges

for leaseholders will increase, due to building cost inflation and the hardening of the market.

6. Risk Management Implication(s)

6.1 Due to the limited number of insurers operating in this market there is a small risk that no quote will be received. All efforts are being made to minimise this risk, but the consequences of a provider not being found could be significant. In this event, alternative arrangements would need to be made within the Council to effectively underwrite the provision of cover and provide claims handling services to leaseholders.

7. Security & Terrorism Implication(s)

7.1 There are no direct implications arising from this report.

8. Procurement Implication(s)

8.1 The recommendation complies with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules

9 Climate Change Implication(s)

9.1 There are no direct implications arising from this report

10. Human Resources Implication(s)

10.1 There are no direct implications arising from this report.

11. Health and Wellbeing Implication(s)

11.1 There are no direct implications arising from this report

12. Communication and Engagement Implication(s)

12.1 A Section 20 consultation is being undertaken with leaseholders.

13. Link to Corporate Priorities

13.1 The recommendation contributes to the our priority 'A well-run council which puts our customers first'.

14. Equalities and Diversity

14.1 I confirm that an Equality Impact Assessment (EqIA) is not required in relation to this report.

Name of author: Andrea Plucknett
Title: Treasury, Insurance & Controls Lead Officer

Date: 1 February 2023