

**Open Report on behalf of Andrew Crookham, Executive Director - Resources**

Report to:	<b>Councillor M J Hill, OBE, Leader of the Council (Executive Councillor: Resources and Communications)</b>
Date:	<b>Between 28 August 2020 and 02 September 2020</b>
Subject:	<b>Insurance Portfolio – Extension to Current Contract</b>
Decision Reference:	<b>I020530</b>
Key decision?	<b>Yes</b>

**Summary:**

The insurance programme is due for tender in April 2021. This report seeks approval to delay the procurement of the Insurance Portfolio of contracts in response to Covid-19 and accordingly award contract extensions for no more than two years of the current arrangements. The total current contract values amount to £2.2m.

The Public Contracts Regulations 2015 permit such an extension.

The extension of the insurance contracts would require a corresponding extension of the broker contract to realign to the procurement process for the tender.

**Recommendation(s):**

That the Leader of the Council:-

1. approves to delay the procurement of replacing the current insurance contracts and extend the current insurance arrangements for no more than two years with the tender to take place in April 2022 or April 2023 depending on the outcome of the extension offers by the current insurers.
2. approves the extension of the renewal of the insurance broker contract to realign to the tender timeline.

**Alternatives Considered:**

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| 1. | To continue to tender the insurance programme and broker contract in line with current arrangements. |
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	It is highly unlikely given the current uncertainty due to Covid-19 that insurers will be in a position to respond to the insurance tender opportunity, providing the Council with affordable and value for money insurance arrangements.
2.	Do nothing. This is not an option as the current contracts end on the 31 March 2021.

### **Reasons for Recommendation:**

The recommendation to extend the contract is to protect the Council from a volatile and uncertain market brought about by recent high loss years for insurance claims and the current conditions arising from the pandemic.

## **1. Background**

- 1.1 In 2016 the full Lincolnshire County Council Insurance Programme was tendered using the standard OJEU procurement approach and the insurance programme was placed with a number of providers predominantly on a 3+2 long term agreement (LTA) basis. A number of bespoke policies were let on an annual basis but these predominantly relate to specific service requirements.
- 1.2 The total insurance premium spend for 2020/21 is £2,159,412.
- 1.3 The current insurance programme consists of 18 different policies of insurance including those for employers and public liability, property, motor, professional indemnity being the main ones.
- 1.4 There are differing levels of self-insurance in place. The main policy levels are:
  - Liability policies with £500,000 self-insured
  - Education properties with £150,000 self-insured
  - General properties with £10,000 self-insured
  - Motor own damage completely self-insured
  - Motor third party with no self –insured element
- 1.5 At the break year in 2019/20 it was agreed to take up the +2 option with the programme due for tender in April 2021.

## **Current Position**

- 1.6 There are a number of factors currently affecting the insurance market which is causing a severe hardening of the market and a high level of uncertainty. The impacts are affecting:

- the capacity of carriers (insurers) to underwrite risks
  - the number of insurers in particular markets
  - the premiums being charged for those risks
  - the policy cover being provided with additional exemptions or restrictions being advised
- 1.7 2019 was the fourth costliest insurance claim year in history bringing the profitability of insurers into the danger zone (sustainability and profitability of insurers). One of the impacts has been a reduction in the number of insurers for Public Sector risks which often already struggles to attract quotes.
- 1.8 Lincolnshire County Council has to a large extent been protected from wholesale premium increases over the last five years, except in respect of property where the claims experience has been very poor. The ability for us to have sustained premiums for liability insurances for five years is almost unheard of and our closest public sector comparators have experienced increases of between 10% - 30%.
- 1.9 Covid-19 has further impacted the market which is now in an uncertain as well as a hard position. As the full impacts of the virus are not known or yet clearly modelled for, insurers of risk are withdrawing from areas of the market and are also looking to significantly increase premiums to cover the uncertainty. An indication of expected premium increases across all lines of cover is between 15% - 35%.

## **Tender**

- 1.10 As preliminary discussions have taken place with our current and potentially interested insurers it has become clear that due to the level of uncertainty in the market, taking a risk the size of Lincolnshire to market would be a significant risk at this time.
- 1.11 The risk is financial as carriers look to cover the uncertainty that the current pandemic is causing. It is also in terms of capacity as there are less insurers looking to take on new risks and those that remain are being more selective around the risks they will underwrite. This will definitely impact Lincolnshire for
- property risks where our loss experience over the past five years has been very high due to high value fire and storm related losses.
  - casualty (employer's and public liability) where the last three years highway related claims have seen dramatic increases in numbers received and settlements being made as our ability to defend claims was reduced.
- 1.12 Our current insurers have been approached and are willing to offer a one year or in some cases two year extension to our current arrangements, at which point it is hoped the market will have settled and that a better overall outcome could be achieved.

- 1.13 Legal advice has been sought from Legal Services Lincolnshire and it is confirmed that Regulation 72 (8) of the Public Contracts Regulations 2015 would permit a decision to extend.
- 1.14 An extension would also enable an insurance programme review to identify if there are additional options for how Lincolnshire may want to transfer some of its risks which could help present the overall risk in a more attractive way to the market when it is tendered. This work is planned to take place in autumn 2020.
- 1.15 The appointed brokers, Gallagher who support access to the insurance market have advised that a tender at this time runs a higher than normal risk factor due to the uncertainties in the market.
- 1.16 It should be noted that the contract for the appointed broker was due to be tendered in November 2021 to line up with the current tender arrangements. If the tender is extended there would need to be a corresponding extension of the broker contract to ensure it is realigned with the tender timeline. The annual spend on this contract is £9,060.
- 1.17 Engagement with other Public Sector colleagues facing a similar position have shown that many are also considering extending their current arrangements or have already done so.

## Options

1. To continue to tender the risk in April 2021 – not recommended due to volatility of the market, risk of gaps in carriers and cover and higher than expected premiums.
2. To extend the current programme with our current insurers by no more than two years – **recommended** at this point in the process. This is the recommended option as:
  - a) it gives certainty of cover with carriers who have built up a strong relationship with us over the last five years and accordingly are more likely to have an appetite for the risk.
  - b) the policy cover in place is more likely to remain as it is currently.
  - c) the premiums are more than likely to remain within expected year on year increases and may even be matched to current rates.
  - d) it gives the opportunity to assess the recommendations and actions from the insurance programme review to support better presentation of the risk.
  - e) it provides at least one year of highway claims with the new contract which is hoped to show significant improvements on the past three years.

This option would need an extension to the broker contract by no more than two years.

## 2. Legal Issues:

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

<p>The report entitled <i>Insurance Portfolio – Extension to Current Contract</i> has no implications arising from the Equality Act 2010.</p>
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Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

The Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) are not directly relevant to the recommendations set out in the report on *Insurance Portfolio – Extension to Current Contract*.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

The functions under section of the Crime and Disorder Act 1998 are not directly relevant to the recommendations set out in the report on *Insurance Portfolio – Extension to Current Contract*.

**3. Conclusion**

The Council still has a requirement to arrange adequate cover for its insurable risks.

Extending the existing contracts should ensure that current arrangements are maintained, risks associated with transition during the Covid-19 period are reduced and gives time to the Council to review its current insurable risks / cover.

**4. Legal Comments:**

The extension of the contracts are permissible through the application of Regulation 72(8) of the Public Contracts Regulations 2015.

The other matters to which the Leader of the Council must have regard to are dealt with in detail in the Report.

The decision is consistent with the Policy Framework and within the remit of the Leader of the Council if it is within the budget.

## **5. Resource Comments:**

The Council has an existing approved budget to cover the cost of these insurance premiums. We will include an estimate of cost increases for premiums as part of the budget setting process for 2021/22. Accepting the recommendation within the report to extend the current contract, will mitigate some of the uncertainty about this cost pressure for the budget setting process and minimise the extent of the potential price increase.

## **6. Consultation**

### **a) Has Local Member Been Consulted?**

N/A

### **b) Has Executive Councillor Been Consulted?**

N/A

### **c) Scrutiny Comments**

The decision will be considered by the Overview and Scrutiny Management Board on 27 August 2020 and the comments of the Board will be reported to the Leader of the Council.

### **d) Have Risks and Impact Analysis been carried out?**

Yes

### **e) Risks and Impact Analysis**

The risk information is contained within the report.

## **7. Background Papers**

No Background Papers within the meaning of section 100D of the Local Government Act 1972 were used in the preparation of this Report.

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