

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

Report to:	Councillor M J Hill, OBE, Leader of the Council (Executive Councillor: Resources, Communications and Commissioning)
Date:	3 – 7 October 2022
Subject:	Insurance Strategy
Decision Reference:	I022815
Key decision?	Yes

Summary:

This Report seeks approval for the proposed Insurance Strategy which sets out the approach for the retention and transfer of risk for Lincolnshire County Council in line with the Council's risk appetite in line with the Risk Management Strategy 2022 and which will underpin the retendering of the Council's insurance requirements so that new insurance arrangements are in place from 1st April 2023.

Recommendation(s):

That the Leader of the Council (Executive Councillor: Resources, Communications and Commissioning)

1. approves the Insurance Strategy at Appendix A as the basis for retendering of the Council's insurance requirements for the period 1st April 2023 to 31st March 2028.
2. approves maintaining the Council's current self-retention limits for all risks except General Properties.
3. approves increasing the self-retention level for General properties from £10,000 to £150,000.
4. approves having a separate Lot for schools' risk.
5. delegates to the Executive Director - Resources in consultation with the Leader of the Council (Executive Councillor: Resources, Communications and Commissioning) authority to determine the final form of the tender documents and to take all decisions necessary to progress the procurement up to and including the decision to award the contract or contracts.

Alternatives Considered:	
1.	No change to current arrangements - the report expands on why at least the option to explore an alternative for schools should be considered and why an increase on General properties is required.
2.	Greater self-retention across all policies - from market engagement the current levels, except for General property would invite affordable responses without exposing the insurance fund to greater financial burden.
3.	Recommend Schools move to Government risk pooling scheme - potential risk exposure for schools on legal advice, claims support and costs coverage. Risk to LCC on having to renegotiate awards without schools.

Reasons for Recommendation:

The approach recommended takes account of the current market conditions and the risk appetite of Lincolnshire County Council. It provides an opportunity to invite realistic responses to the tender whilst ensuring our ability to finance any claims arising from the self-retention levels proposed.

1. Background

The Council's insurance programme was last tendered in 2016. In order to obtain some consistency, stability and to maximise value for money, previous insurance contracts were procured on a 3 year + 2 year long term agreement. Due to the state of the external market in 2020/21 agreement was sought and approval given for the 2016 arrangements to be extended for a further 2 years through to 31st March 2023.

As part of the next tender an Insurance Strategy has been written to set out the current arrangements between risk retention and risk transfer and ensure these align to the Council's risk appetite and ensuring the provision of good-value council services.

It is important to ensure a balance between risk retention and transfer to protect the Council's assets and potential liabilities.

The strategy is attached at Appendix A.

The overall programme of insurance has performed well since 2016. The strategy proposes that there are only 2 areas where changes to the current arrangements need to be made.

General Property Insurance

Since 2016 the claims experience for general properties has been very poor with at least one major loss each year. Currently the self-retention level is £10,000. It is proposed to increase this to £150,000 to match the current arrangements for non-general properties.

The claims experience has already impacted our external premiums each year of the current arrangement despite strong negotiating at annual renewals. The proposed increase is based on the experience of the recent renewals, market engagement feedback

around risk appetite and capacity in the market and our broker's knowledge. The increase in the self-retained level should encourage more responses at an affordable level.

Schools

School risks are currently part of the whole Council insurance arrangement. As schools continue to convert to Academy status the economies of scale for this risk have become less tenable. In addition, the market appetite and capacity for this area of risk have reduced. This is further being driven by the Government's offering of a risk pooling protection scheme which originally was only open to Academies but is now open to all schools. It charges a greatly reduced per pupil rate as there are no historic liabilities to fund and as it is a protection scheme not an insurance policy there is no insurance premium tax, currently 12%, to pay on the per pupil rate.

By taking the schools risk out of the main insurance programme it may be possible to access different market providers who specialise in this area. This is based on recent market engagement with providers which might provide a realistic alternative.

The proposal is to have this as additional Lot in the tender to explore if this is viable alternative.

In addition, the schools would be included within the overall insurance programme to provide a comparison.

In arriving at the proposal to recommend only these two changes to the current position the following alternative options were considered but are not recommended.

Alternative Option 1 - No change to current arrangements

The market has feedback that current self-insurance levels on General properties with the claims history over the last 7 years is not a risk that would attract responses. The risk is premiums at an unaffordable level or no responses at all which would expose the Council to non-protection of assets and a further cost in re-engaging with the market.

The option not to explore a stand-alone schools Lot could result in unaffordable premiums for schools. This could lead to an immediate transfer to the government pooling scheme impacting the overall insurance programme requiring either a retender or negotiations to reduce impact with successful bidders.

Alternative Option 2 - Greater self- retention across all policies

The market feedback is that the existing level of self-insurance levels on all but the General properties policy would be appealing to the market. Increases beyond the General Property proposal could lead to financial instability within the Insurance fund making it unable to meet current and future liabilities.

Alternative Option 3 - Recommend Schools move to Government risk pooling scheme

This alternative option is to recommend schools move to the Government's pooling arrangement with effect from 1st April 2023 and not include them in the tender at all. This would impact the Insurance and Risk Team and Legal Services Lincolnshire (LSL) from a resource perspective as both teams provided support to schools both in terms of day to day enquiries and through claims. It would also impact the legal advice that schools can currently access as part of their insurance arrangements. This advice covers a range of legal issues, not just insurance claims and includes advice on employment processes and tribunals. Provision of this advice by LSL ensures, whilst obviously being legally compliant, gives the Council confidence that advice is informed by a knowledge of the local authority context and the particular legal rules applying to schools.

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.

The provision of insurance services to protect the Council's assets and potential liabilities does not have a direct impact on the Equality Act 2010.

Joint Strategic Needs Assessment (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 provision of insurance services to protect the Council's assets and potential liabilities does not have a direct impact on the JSNA and JHWS.

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 provision of insurance services to protect the Council's assets and potential liabilities does not have a direct impact on the Crime and Disorder Act 1998 outside of ensuring all prospective responders to the tender have reached minimum financial requirements as set out in the invitation to tender.

3. Conclusion

An Insurance Strategy has been developed to inform the basis on which the Council should approach the market to procure its insurance arrangements from 1st April 2023 onwards.

The only changes proposed in the Strategy are increase the General Property self-insurance from £10,000 to £150,000 and to include schools risk as a separate Lot as well as combined with the LCC insurance programme

Approval is sought from the Leader of the Council for the proposed strategy with a delegation for the conduct of the procurement and the decision to award a contract to the various successful bidders to be given to the Executive Director for Resources in consultation with the Leader of the Council.

4. Legal Comments:

The Council has the power to pursue the strategy and enter into the contracts proposed.

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

5. Resource Comments:

The options recommended within the report seek to offer best value to the council whilst managing the risk exposure in line with our risk strategy. The council has an existing approved budget for our insurance premiums, and an insurance fund reserve. In conjunction, these are considered to be sufficient to meet the cost of the proposals recommended

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The decision will be considered by the Overview and Scrutiny Management Board at its meeting on 29 September 2022 and the comments of the Board will be presented to the Leader of the Council in addition to any further comments received from Corporate Leadership Team.

d) Risks and Impact Analysis

The Insurance Strategy has been drawn up to reflect the Council's current risk appetite, as seen in the risk Management Strategy 2022.. It is intended to ensure sufficient and

suitable protection of the Council's assets by identifying those risks the Council is prepared to self-retain and those it is transferring.

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Insurance Strategy
Appendix B	Table of Cover

8. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Mandy Knowlton-Rayner, who can be contacted on 07920 183 651 or mandy.knowlton-rayner@lincolnshire.gov.uk.

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