

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 20 June 2018	<b>Meeting Name:</b> Strategic Director of Finance and Governance
<b>Report title:</b>		<b>Gateway 3</b> Property and related insurances	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Head of Financial and Information Governance	

### RECOMMENDATION(S)

1. That the strategic director of finance and governance approves the extension of the property and related insurances contract with Zurich Insurance plc, trading as Zurich Municipal (ZM), for a period of two years with effect from 1 October 2018 at an estimated annual value of £1,500,000 with a total extension value of £3,000,000.
2. That the strategic director of finance and governance considers and approves as appropriate any changes to the insurance coverage that may be offered.
3. That the strategic director of finance and governance also notes that the contract will be extended by way of deed of variation to the original contract.

### BACKGROUND INFORMATION

4. The council's main insurances are currently placed with different contractors as follows:
  1. Property Insurances (Housing, Education, General, Commercial, Motor and Crime) – ZMI
  2. Liability Insurances – QBE via intermediaries Risk Management Partners (RMP) and Arthur J Gallagher (AJG)
  3. Liability claims handling with Gallagher Bassett also via RMP and AJG
5. This report relates only to item 4.1 above, property insurances, which include property for schools, general council buildings (e.g. offices), council housing and commercial properties. It also includes other asset insurances: money, works of art and valuable items; crime; and motor insurance.
6. Although there is no legal requirement to insure property the council does in fact insure against a comprehensive range of insurance risks to protect public assets against potential catastrophic losses. The only exceptions are fidelity guarantee insurance (which is an element of crime insurance) and motor third party insurance that the council is required to purchase.
7. An increase in the motor premium was applied at 1 October 2017 due to a change in the Ogden rate. The Ogden rate is the discount used when calculating future loss in personal injury claims where victim's of life-changing injuries accept lump sum compensation payments. The actual amount they receive is adjusted according to what interest they can expect to earn by investing the money. The government changed this rate from 2.5% to -0.75%.

## **KEY ISSUES FOR CONSIDERATION**

### **Key Aspects of Proposed Variation**

8. Initial discussions with ZM indicate they are happy to offer a two year extension and more formal discussions on terms will take place during the renewal process between June and October 2018. It is likely that the extension will be offered on the same terms and rates as the current contract.
9. The original contract commenced on 1 October 2015 for two years with the option to extend for one further period of 12 months. The value of the original contract for the period 1 October 2015 to 30 September 2017 was £2,554,766. The value of the one year extension from 1 October 2017 was £1,500,000.
10. This report is seeking approval for an additional two-year extension at an estimated contract value of £1,500,000 per annum.
11. There are no new insurance coverage requirements being sought. However, any improvements in policy wording and level of cover will form part of the discussions.

### **Reasons for Variation**

12. There are various reasons for seeking an extension to the current contract rather than proceed with a full tender. This is based on uncertainty in the insurance market due to a number of factors.
13. One factor is a further change to the Ogden rate. The government changed the rate in early 2017 from 2.5% to -0.75%. Due to lobbying by the insurance industry, it is likely the rate may change again which could further impact premiums. In September 2017, the Lord Chancellor confirmed proposed reforms to move the rate back to between 0% and 1% to better reflect evidence of 'the actual investment habits of claimants'. The government also said it wanted to ensure the rate was reviewed at least every three years with the support of an independent expert panel. It is still unclear when these changes will happen.
14. A second factor is a recent major fire tragedy affecting a social housing block, Grenfell Tower, which may impact on how insurers quote for local authorities with social housing stock in any future tenders. Until further detail is known following the public enquiry, it is hard to predict how the insurance industry will respond.
15. Thirdly, there is news of new providers coming into the market with a very recent report of early May 2018 of a mutual insurance vehicle being incorporated as a limited company. The mutual, LGAM, is made up of local authorities and the Local Government Association and is being described as an alternative to the existing local authority insurance market by enhancing choice. It will be important to see how this develops in the coming months. Once the mutual is accepting business, then the council will need at least a year to consider how it is operating and performing for the local authorities that have joined.
16. A further consideration is based on expert external advice received that underwriters are showing greater underwriting discipline and increasing their focus in account profitability. Poor claims experience and/or ineffective risk management are also having an impact on terms being quoted. It is difficult to predict the future,

but given very low interest rates, the weak recovery in the Eurozone and continuing high claims inflation, it is likely this will lead to a hard market phase in the insurance sector.

17. Further information is contained in the closed version of the report.

### Future Proposals for this Service

18. The council is currently considering options for a procurement exercise in 2019.

### Options Considered

19. A number of procurement options were considered:

No	Option	Advantages	Disadvantages
1	Let the contract lapse and not extend	None	No insurance protection for council assets  Not an option as the council policy is to insure and not an option specifically regarding Fidelity Guarantee and Motor insurance as the council is required to insure the risk
2	Undertake competitive tender	Would allow the market to be tested	As per the reasons outlined in paragraphs 12-17 it is not the right time to tender
3	Utilise an insurance framework	Would allow market to be tested with no need for an OJEU procurement	There is only one currently available via CCS and this expires on 30 April 2019 which doesn't fit with our timescales or policy renewal dates. Using the CCS framework would incur a commission charge of 0.75% of premium spend and there is no guarantee the council would receive any bids
4	Undertake a competitive tender for an alternative insurance financing solution (e.g. catastrophic insurance cover only)	Potential for some premium saving	As per the reasons outlined in paragraphs 12-17 it would not be the right time to do soft market testing to explore this option further  In addition, there is not enough time to set up all the systems and processes and funding arrangements required to move to catastrophic only cover.  There would be a significant increase in the self-insured risk exposure at probably the wrong time with cuts to local government budgets
5	Extend the current	Would ensure	There is a potential risk of

	contract	insurance cover is in place and unlikely that costs will increase significantly  Current provider has already confirmed they would be happy to offer an extension	challenge as noted in paragraph 20.2 below.
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### Identified risks for the Variation

20. Identified risks are as follows:

No	Risk	Risk Level with mitigation	Mitigating Action
1	A significant insured loss occurs before contract is finalised resulting in ZM not willing to negotiate or increasing the premium	Medium	1. Seeking approval as soon as possible 2. Confirming that ZM will hold their rates and complete the renewal process as soon as possible
2	Risk of procurement challenge due to contract not being fully tendered	Low	There is a potential risk of challenge. However, given the difficulties with undertaking a competitive tender process (as highlighted in paragraphs 12-17), and the ability of the council to agree a modification of this contract, then this is considered a low risk.

### Policy implications

21. There are no direct policy implications

### Contract management and monitoring

22. As there are no issues with the day to day performance of the contract, the current contract management and monitoring arrangements will remain in place. The contracts are currently managed by the corporate risk and insurance team with operational responsibility for the motor insurance element handled by fleet services and the commercial property insurance element handled by property. Performance is monitored using a variety of techniques including quarterly review meetings and a defined service level agreement. Annual performance reports are produced and considered by the department's contract review board.

23. ZM's performance of each contract element has broadly remained unchanged over the past year. Examples of good contractor performance include:

- a. excellent support and involvement in the quarterly performance review meetings

- b. willingness of contractor to engage with other relevant council functions to improve the insurance claims handling process, such as the council's fleet services team
- c. contractors involvement of contractor in certain pro-active initiatives, such as schools' fire protection and other property protection advice
- d. willingness of contractor to settle claims

### **Community Impact Statement**

24. This decision has been judged to have no or a very small impact on local people and communities.

### **Social Value considerations**

25. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

### **Economic considerations**

26. There are no local economic benefits as the contractor is an international organisation with no local offices.

### **Social considerations**

27. As this insurance provider is an international organisation, social considerations from a local workplace perspective do not arise. Staff employed by this provider already receive in excess of the London Living Wage.

### **Environmental/Sustainability considerations**

28. The service seeks to limit unnecessary travel and meetings, and as far as possible utilise online systems to minimise paper waste.

### **Financial Implications**

29. The financial implications are as detailed in the main body of the report. The proposed two-year extension at an estimated contract value of £3,000,000 represents 74% of the original contract value.

30. The costs associated with the extension of this contract will be contained within cost centre group CD190 (Insurance Funds).

31. Any extension or variation of the contract beyond the scope of this report will require confirmation of funding and formal approval in line with corporate procurement protocols.

### **Legal Implications**

32. Please refer to the comments of the director of law and democracy.

## **Consultation**

33. No additional consultation has been undertaken.

## **Other implications or issues**

34. There are no other implications or issues.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (F&G18/004)**

35. This report recommends the extension of the corporate property and related insurance from 1 October 2018 for two years. The contracts will impact on financial years 2018-19 to 2020-21. The financial implications note that the costs can be contained within the current budget. Future budgets will be set by council assembly on an annual basis.

### **Head of Procurement**

36. This report seeks approval for the extension of the property and related insurances contract with ZM for a period of two years with effect from 1 October 2018 at an estimated annual value of £1,500,000 with a total extension value of £3,000,000.

37. The value and nature of this variation is such that it is subject to the tendering requirements of the Public Contracts Regulations 2015 (PCR 2015). Regulation 72(1)(e) of PCR 2015 permits contracts to be modified, irrespective of their value, if the modification is not substantial. The reasons for the extension are noted in paragraphs 12 to 16 of this report and 4 and 5 of the closed report.

38. Paragraphs 29 to 31 of this report confirm the financial implications of this variation.

39. The report confirms the monitoring and management arrangements which will be in place during the life of the contract.

### **Director of Law and Democracy**

40. This report seeks the strategic director of finance and governance's approval to the extension of the property and related insurances contract with ZM as further detailed in paragraphs 1-3 of this report. As the variation decisions relate to contracts for insurance then the decision to approve is reserved to the strategic director of finance and governance under contract standing order 6.6.3(d).

41. The value and nature of these insurance services means that the original appointments were subject to the tendering requirements of the Public Contract Regulations 2015 (PCR 2015), and it is therefore necessary to ensure that any variations or extensions to those appointments are permitted within those procurement regulations. Regulation 72 permits modifications to be made to contracts during the term, in certain circumstances. This includes, at Regulation 72(1)(e) where the modification irrespective of value is not substantial. Having considered the circumstances noted at Regulation 72(8) which notes those modifications which could be considered substantial, it is considered by officers

that the contract council be extended under this provision, particularly given that the council is considering options for a procurement exercise in the future.

42. CSO 3.2 requires that no steps are taken to vary a contract unless the expenditure involved has been included in approved estimates, or is otherwise approved by the council. Paragraphs 29-31 confirm the financial implications of this variation.

#### PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature



Date 20-6-18

Designation

STRATEGIC DIRECTOR OF FINANCE AND GOVERNANCE

#### PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

#### 1. DECISION(S)

As set out in the recommendations of the report.

#### 2. REASONS FOR DECISION

As set out in the report.

#### 3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION

As set out in the report.

#### 4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION

None.

**5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST**

*If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.*

N.A.

**6. DECLARATION ON CONFLICTS OF INTERESTS**

**I declare that I was informed of no conflicts of interests.\***

**or**

**~~I declare that I was informed of the conflicts of interests set out in Part B4.\*~~**

(\* - Please delete as appropriate)



## BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 3 Variation Decision: Property and related insurances	Corporate Risk and Insurance, Finance and Governance	Laura Sandy 020 7525 7398
<a href="http://moderngov.southwark.gov.uk/mg/IssueHistoryHome.aspx?Ild=50012805&amp;optionId=0">http://moderngov.southwark.gov.uk/mg/IssueHistoryHome.aspx?Ild=50012805&amp;optionId=0</a>		

## APPENDICES

No	Title
N/A	None

## AUDIT TRAIL

<b>Lead Officer</b>	Jo Anson, Head of Financial and Information Governance	
<b>Report Author</b>	Laura Sandy, Insurance Manager	
<b>Version</b>	V1	
<b>Dated</b>	12/06/2018	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	No	No
Cabinet Member	Yes	N/A
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	N/A
<b>Date final report sent to Constitutional/Community</b>		20 June 2018

