

CABINET

**COUNCILLOR GARETH WILLIAMS
FINANCE PORTFOLIO HOLDER**

10 SEPTEMBER 2024

REPORT NO. FIN2414

KEY DECISION? NO

INSURANCE PROVISION

SUMMARY AND RECOMMENDATIONS:

The 3-year insurance framework call off contract expires on 31st March 2025 and is due to be re-procured. The Council has a choice to continue to participate in a joint Hampshire district and borough wide tender process through the Hampshire Insurance Forum (HIF) or alternatively join an insurance collaboration led by London Borough of Sutton (LBS). The council must decide by the end of September on which route it will take. Once committed to the HIF tender process the council cannot withdraw due to the implications on the other participants.

LBS operates an integrated insurance services (since 2012) for itself and seven Surrey local authorities, to manage insurance administration, jointly procure insurance and pool the insurance policies excess through a collaboration agreement. LBS procures external insurance (for all parties to the collaboration) through a nine London borough consortium to gain economies of scale.

Pooled excess reduces the external policy premiums that would otherwise not be practicably possible for a single council without taking on excessive financial risk. This proposal is expected to secure a cost saving through economies of scale, increased administrative capacity, expertise, and improved business continuity without impacting on the council's overall insured risk exposure.

The HIF is not able to offer the insurance policy excess pooling to achieve equivalent economies of scale or capacity to manage the Council's insurance administration.

Detailed due diligence by LBS to develop an insurance proposal is due to be concluded in September and a decision is required on which route to take to renew the Council's insurance arrangements. The resourcing of the insurance administration is also a factor that must be considered.

Cabinet is requested to approve:

1. the collaborative agreement to join the integrated insurance service led by LBS (as the preferred mechanism for the provision of insurance) subject to a satisfactory proposal being received in September and agreed by the Executive Head of Finance following consultation with the Corporate Manager – Legal, the Leader as Portfolio Holder - Finance and the Chair of CGAS to proceed.

2. the additional provision of one-off funding of £15,000 to allow LBS to support the Council's insurance administration until the new arrangements are in place to be funded from the stability and resilience reserve.
3. subject to the collaboration proposal not being acceptable to proceed with the Hampshire Insurance Forum approach outlined within the report

1. INTRODUCTION

- 1.1. The Council's insurance contractual arrangements expire on 31st March 2025. The Council must ensure it achieves value for money and compliance with its procurement rules through periodic tendering of the insurance contract and reviewing the adequacy of its insurance requirements in line with the insurance strategy.

2. INSURANCE ARRANGEMENTS

- 2.1. The Council's insurance strategy objectives are:
 - To protect the Council from the impact of unforeseen losses,
 - To achieve a financially prudent balance between self-insuring of claims (i.e., insurance excess limits) and the purchase of external insurance protection,
 - Ensure the Council obtains an adequate level of insurance, and
 - To monitor trends and contribute to risk management initiatives to reduce the cost and frequency of insurable losses.
- 2.2. The Council secures its insurance requirements through Gallaghers, the Council's insurance broker to manage annual policy renewals, new insurance placement, and technical queries. The Council's insurance policies are currently with Protector and Zurich Municipal. The full schedule is provided in appendix one.
- 2.3. Gallaghers is contracted as the broker for the Hampshire Insurance Forum, (HIF) consisting of the eleven Hampshire district and borough councils. Insurance is tendered collectively via the broker on behalf of the HIF on a 3 year call off contract with an annual renewal review, with each council contracting individually with the insurers. Insurance policies were last tendered under Official Journal of the European Union (OJEU) Regulations, for a term of 3 years from April 2020, with an option to extend by up to 2 years. The insurance term has expired and must be retendered.
- 2.4. The HIF will begin a tender exercise in October through Gallaghers, to ensure the insurance renewal is completed for before April 2025. In preparation, a significant amount of due diligence has been completed internally to update asset details, valuations, and other relevant service-related information to review the adequacy of insurance requirements and inform policy pricing.
- 2.5. The finance service is responsible for insurance administration, which involves liaison with Gallaghers, Protector and Zurich to maintain insurance data,

administer specific claims and maintain up to date insurance cover. The officer capacity responsible for and experienced in insurance administration left the council at the last finance team restructure, with the work reverting to the finance manager. This has proven to be inadequate resulting in a significant amount of work to update insurance schedules and cover, and this capacity deficit will have to be resolved. Experienced administrative support has been unsuccessfully sought from the HIF members due to a general lack of experienced insurance administrative capacity across Hampshire.

- 2.6. There is an alternative insurance arrangement to the HIF tender process available to the Council from the London Borough of Sutton (LBS). LBS has an integrated insurance service model that operates on the basis that LBS assumes insurance responsibility for participating councils' risks, through a combination of self-insuring and placing external insurance to limit its own exposure to catastrophe risks.
- 2.7. The Council will delegate its insurance function to LBS as the lead authority, including claims handling and negotiation and LBS will assume financial risk for the Council's claims within the collaborative insurance programme. Claims up to the value of £500,000 for Liability, £250,000 for Property and £100,000 for Motor will be handed by LBS pooled insurance excess fund, claims over this value will be handled by the external policies. The pooled fund is underwritten by LBS supported by a regular actuarial assessment and has a protection mechanism (see collaboration terms in appendix two). The Council will contribute to the LBS pooled fund based upon its claims record.
- 2.8. In comparison, the council's current insurance model has policy excess(self-insured) of up to £5,000 on a single claim funded directly from unbudgeted revenue, there is no insurance reserve to call upon, with LBS the Council will not have any insurance excess to fund. The annual charge for participation in the Integrated Insurance Service will consist of a contribution to the pooled fund, an allocation of the underwritten insurance premium and a charge for the insurance bureau, providing in year budget certainty.
- 2.9. The combination of high value insurance policy excess and jointly purchasing insurance through a consortium of 9 other London Boroughs affords LBS significant purchasing power to achieve economies of scale and premium stability well beyond the ability of individual district and borough councils to manage premiums through increased excess.
- 2.10. The LBS insurance offer includes an insurance administration bureau with direct links to the Council's services priced into the charge. The service will be delivered by the LBS team, rather than having any borough-specific staff. This provides a depth and breadth of technical insurance knowledge and advice, risk management and trend analysis advice. The HIF tender route to contract directly with insurers will require budget growth of Circa £20,000 to adequately administer insurance, and this does not provide any depth of technical insurance knowledge or experience.

2.11. The administration capacity is required to cover the following administrative work:

- Assistance with relevant FOI requests, complaints and members enquiries;
- Provision of management reports and data;
- Meetings with key claim generating services to discuss operational risk management and claim performance;
- Responding to internal requests for insurance advice or cover amendments;
- Procurement of insurance policies and related services in accordance with public procurement rules;
- Management of the Claims Portal;
- Gather information internally from services in respect of claims handling information and preparation of insurance policy renewals.

2.12. Participation in the HIF tender process requires a decision by the end of September to commit to the HIF joint tender. Once committed to the HIF tender process the council will be contractually committed because later withdrawal will impact the tender detail and pricing. LBS are due to provide a formal insurance proposal as outlined in Appendix Two by mid-September in time to make a decision on the council's future insurance provision.

2.13. LBS have proposed to commence managing the Council's insurance programme and claims from 1 October 2024 to 31 March 2025, at a cost of £15,000, as phase one of the collaboration agreement. This cost will then be integral to the annual charge if the proposal proceeds to phase two as described in appendix two.

2.14. The table below provides an overview comparison between the two routes:

| Comparison of HIF insurance tender process to LBS offer | | |
|--|---|--|
| | HIF | LBS |
| Insurance excess | Up to £5k unbudgeted cost per claim | No policy excess |
| Policy liability limits | Various dependant upon policy | Will be equivalent or better |
| Administration support | None - HIF members for general advice, will require officer capacity circa £20,000 budget growth. | Full administrative support included |
| Contract term: | Likely 3+1+1 years call off contract: no break clauses | 5 years, break clauses within parameters/performance |
| Indemnity for negligence or omission | None - all on the Council | LBS indemnifies as Lead authority |

2.15. The key criteria for the decision must be based upon the overall cost of insurance being within current budget (or less) including the cost of the administrative process, the ability to achieve medium term (5 year) premium stability, avoid above inflation annual insurance price increase shocks and the value for money of the overall insurance arrangements between the two options. A full comparison of the Insurance liabilities/indemnities will be completed as part of the final due diligence once the LBS proposal is received. Not less than current terms will be acceptable.

- 2.16. The Executive Head of Finance has worked with LBS for 5 years and procured the LBS service on behalf of Waverley Borough Council in 2020. LBS performance was reviewed annually by the participating Surrey borough and district councils Section 151 officers' group. The service provided has proven to be Value for Money through insurance budget reduction, significant cost increase avoidance, establishment cost saving and has achieved the objectives set out in this paper.
- 2.17. Contractual arrangements are covered in the legal section below and appendix two.

Alternative Options

- 2.18. There are limited options available for procuring insurance, managing the cost of insurance and mitigating risk.
- 2.19. The council has two options, continue with the HIF tender and contract directly with specific insurers for the necessary insurance covers or contract with LBS to join the Integrated Insurance Service including the insurance administration bureau. It is possible to procure directly from an insurance framework as a direct approach to market, this would take approximately 4 months. This is not a viable option as it would require the acquisition of a broker and approach to the same pool of insurers open to Local Authority business as the HIF and LBS with no economies of scale or ability to increase insurance excess without significantly higher financial risk, to competitively reduce premiums.

Consultation

- 2.20. Cabinet and CGAS will be consulted on this proposal with an opportunity to discuss the proposal with LBS insurance manager prior to a final decision.

3. IMPLICATIONS

Risks

- 3.1. Insurance is a key component of risk management. The council has a statutory obligation to ensure adequate insurance provision. Failure to adequately insure could result in a significant financial detriment to the Council in the event of an insurable risk event materialising. Not agreeing a course of action as proposed in this report will result in the likelihood of not having adequate provision in place by 1st April 2025 or potentially more expensive insurance premiums due to limited time and ability to negotiate.
- 3.2. A review of LBS's MTFS shows that it is a financially stable authority, its net revenue budget for 2023/24 was £161.2m with an outturn surplus of £306,000 and for 2024/25 its net revenue budget is £174.2m and has usable reserves of £163m. The council has the expected demographic and inflation cost pressures in line with other councils. A balance budget was set for 2024-25 and its MTFS forecasts a budget deficit of £31m over the following 2 years predominantly

related to the Dedicated Schools Grant (DSG) and Special Educational Needs transport and therapies costs funded from the General Fund.

- 3.3. LBS, the Council and Surrey districts and boroughs cover similar functions and services, they have similar demographics and a wide range of urban and rural geography. LBS therefore has an in-depth understanding of the risk profile of all the authorities and experience of working with them since 2012. The council has no unique features from an insurance risk perspective that would incur any complication based upon the in-depth review completed by LBS.
- 3.4. The in-depth review by LBS also included a review of all claims over the last ten years including the policy detail of all current insurance policies. The outcome of this review will inform the collaboration proposal and pricing.
- 3.5. LBS will indemnify the Council against any loss occasioned as a result of negligence or omission as Lead Authority in respect of conducting the Council insurances covered under the collaboration agreement. In addition, LBS will not indemnify the Council against any losses or damages incurred which would not be insured under the operative sections of the external insurance policies placed by LBS for the benefit of itself and its partners, including the Council. If there is no external insurance policy in place for any risk and the cover is included within the terms of this Collaboration Agreement, a market standard local authority worded policy will be used.
- 3.6. Exit clauses – in the event that the Council suffers a deteriorating claims experience or premium increase that results in the agreement to exit the collaboration, there is a six-month window to procure alternative insurance or at least test the market against a revised LBS pricing. Whilst LBS will manage insurance losses on behalf of the Council which pre-date this Collaboration Agreement, those losses are to be funded by the Council in accordance with the terms, conditions and exceptions of the Council previous contracts of insurance. Decisions to agree settlement will be referred with recommendations by LBS to the Executive Head of Finance.
- 3.7. In the event of a withdrawal the Integrated Insurance Service will remain liable for any claims with an incident date within the collaboration period.

Legal Implications

- 3.8. Finance regulations D3 to D6 require the Chief Finance Officer to ensure appropriate insurance cover in accordance with statutory requirements for known insurable risks and assets owned and/or used in connection with the Council's activities and regularly review the Council's insurances with the appropriate Executive Directors, Heads of Service, Corporate Managers and Service Managers.
- 3.9. In relation to the London Borough of Sutton (LBS) insurance option, under the Public Contracts Regulations 2015, section 37, local authorities, as contracting authorities, may purchase works, goods or services from or through a central purchasing body. Where they make such purchases, they are deemed to have

complied with public procurement regulations, to the extent that the central purchasing body has complied with the rules. A central purchasing body includes a contracting authority that acquires supplies and/or services (such as insurance) intended for contracting authorities.

- 3.10. Pursuant to sections 9E, 9EA, 9EB of the Local Government Act 2000 the Secretary of State may make provision to permit local authorities to make arrangements for the discharge of their functions by another local authority and under Section 101(5) of the Local Government Act 1972 for the discharge of any of their functions jointly which are the responsibility of the Cabinet or Executive of a local authority. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 permit such arrangements.
- 3.11. In accordance with sections 101 and 111 of the Local Government Act 1972, and section 3 of the Local Government Act 1999, a number of local authorities have already agreed to enter into a collaboration agreement to establish a relationship between the authorities in relation to the provision of an integrated insurance service.
- 3.12. In relation to the direct tender option, the Public Procurement rules and Contract Standing Orders must be followed in the normal way.
- 3.13. The Procurement Act 2024 is due to come into effect from 28 October 2024, and until this date, the existing procurement rules as explained above will apply.
- 3.14. There are no TUPE issues to consider as there are no posts affected.

Comments approved by Corporate Manager, Legal Services.

Financial and Resource Implications

- 3.15. The initial service agreement will be for 5 years with break clauses based upon specific financial parameters set out in appendix two.
- 3.16. The annual charge for participation in the Integrated Insurance Service will consist of a contribution to the pooled fund, an allocation of the underwritten insurance premium and a charge for the insurance bureau. This information will be provided by mid-September. The Council's 2024-25 insurance budget is £364,000. Full detail is on appendix one.
- 3.17. The cost of the LBS insurance administrative bureau is expected to be contained within the within the 2024-25 LBS insurance charge. The Council does not have a dedicated insurance administration budget resulting from an efficiency saving in the last finance team restructure. This has proven to be ineffective and will require budget growth of circa £20,000 if the HIF procurement route is pursued.
- 3.18. The LBS collaboration agreement will be managed by the Executive Head of Finance, claims administration will be managed by LBS and the annual data

updates such as rebuild cost valuation of assets will be covered within the rolling 5-year annual valuation process for the Financial Statements.

Equalities Impact Implications

- 3.19. Consideration has been given to the protected characteristics. There do not appear to be any equalities implications arising in respect of the decisions being taken by Cabinet with regard to this report.

Other

- 3.20. Insurance is a significant cost to the council and is of strategic importance, it is important that the council achieves Value for Money and secures the best mitigation possible to provide insurance premium stability to positively contribute to the MTFS deficit challenge.

4. CONCLUSIONS

- 4.1. The Council must ensure it has adequate insurance provision. The call-off procurement framework contract is due to expire and be re-procured. The Council has two options to proceed.
- 4.2. It is in the best interest of the council to maximise its overall value for money on its insurance arrangements including future premium stability and cost of administration.

LIST OF APPENDICES/ANNEXES:

Appendix One: Insurance schedule

Appendix Two: Sutton Insurance proposal

BACKGROUND DOCUMENTS:

None

CONTACT DETAILS:

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Head of Service – as above.

APPENDIX 1

Insurance schedule

| | | 2023-24 | | 2024-25 | |
|--|---------------------|----------------|----------------------------------|----------------|----------------|
| Insurer | Insurance: | | Additional: The Meads | Total | Total |
| Zurich | Fidelity | 6,439 | | 6,439 | 7,083 |
| Zurich | Engineering Ins | 12,134 | 4,001 | 16,135 | 17,219 |
| Zurich | LA Combined | 5,880 | 518 | 6,398 | 7,038 |
| Protector | Combined Liability | 108,290 | | 108,290 | 119,119 |
| Chaucer | Terrorism | 12,601 | 10,827 | 23,428 | 25,771 |
| Protector | Commercial Combined | 17,126 | | 17,126 | 18,839 |
| Protector | Property Damage | 38,980 | 89,732 | 128,712 | 141,068 |
| Protector | Fleet | 4,894 | | 4,894 | 5,383 |
| | | <u>206,345</u> | <u>105,077</u> | <u>311,422</u> | <u>341,521</u> |
| Plus insurance premium tax 2024-25 £22,520 | | | | | |

APPENDIX 2

Sutton Insurance proposal

Rushmoor Borough Council (Rushmoor) has approached Sutton Council (Sutton) to undertake a due diligence process to explore an integrated insurance service between the two parties. Sutton already operates integrated insurance services for seven local authorities, namely Epsom and Ewell Borough Council, Surrey Heath Borough Council, Reigate and Banstead Borough Council, Tandridge District Council, Waverley Borough Council, Mole Valley District Council and Spelthorne Borough Council. These arrangements operate on the basis that Sutton self-insures the other party's risks and then places external insurance to limit its exposure to catastrophe risks. No profit is made by Sutton but the other parties contribute to Sutton's insurance costs, which in turn reduces its own insurance overhead. All parties benefit from various economies of scale and the pooling of risks. The partners primarily benefit through premium stability - in some cases, savings - and access to Sutton's expert in-house claims handling and technical insurance services. The existing integrated insurance services began as five-year agreements with specific cancellation clauses linked to the performance of the service. These middle-term agreements are necessary to implement the necessary operational risk initiatives to create a sustainable insurance programme.

Sutton is currently completing a due diligence review to:

1. Review Rushmoor's current insurance programme;
2. Analyse Rushmoor's claims experience to estimate the required self-insurance funding;
3. Interrogate previously handled claims to find possible areas for improvement;
4. Calculate the cost of the potential integrated insurance service; and
5. Conclude if any such service would be in the mutual benefit of both parties.

Sutton has already reviewed Rushmoor's policy schedules and found no endorsement or other term that would restrict its ability to make a proposal. Sutton is currently awaiting premium indications from its insurers so the financial aspect of the proposal can be completed. However it is hoped it will present an opportunity for Rushmoor to make an immediate financial saving, whilst benefiting from enhanced policy cover and claims handling service. In addition to the lower initial cost of an integrated service, there is potential for further savings once Sutton has implemented its claims handling methodology and incorporated Rushmoor's risks into future procurement exercises.

If the partnership proceeds, Sutton proposes that implementation would be as follows:

- Sutton commences managing Rushmoor's insurance programme and claims from 1 October 2024 to 31 March 2025, at a cost of £15,000, as phase one of the partnership agreement;
- Rushmoor allows all of its policies to expire on 31 March 2025, creating a Rushmoor programme end date of 31 March 2025.
- Rushmoor delegates responsibility for its insurance service to Sutton under the Local Authority Act 1972.
- Sutton incorporates Rushmoor's risks from 1 April 2025 (phase two).

- At that point Sutton will have the financial risk for Rushmoor's claims according to its own insurance programme (currently £500,000 for Liability, £250,000 for Property and £100,000 for Motor). Sutton's external insurers will cover any costs beyond this up to the policy limits. Rushmoor will only be liable for claim payments up to a small departmental excess - to avoid pound swapping.
- Rushmoor's insurers will continue to handle claims with an incident date prior to 1 April 2025 (i.e. up to the expiry date of their cover) however, as part of the agreement, Sutton will manage those claims on Rushmoor's behalf.
- Sutton will then self-handle all claims with an incident date of 1 April 2025 or later (i.e. from the date Rushmoor is covered under the Sutton programme).
- Sutton will handle all claims internally up to its policy excess (all except catastrophe claims).
- Rushmoor's arrangement with Sutton will mirror the existing arrangements it has with the other borough and district councils in the programme.

Throughout and after implementation, Sutton's service for Rushmoor will also include:

- Assistance with relevant FOI requests, complaints and members enquiries;
- Provision of management reports and data as agreed;
- Attendance at biannual service review meetings with Rushmoor (or more frequently if required);
- Meetings with key claim generating services to discuss operational risk management and claim performance;
- Responding to internal requests for insurance advice or cover amendments;
- Procurement of insurance policies and related services in accordance with public procurement rules;
- Assistance with internal and external information to ensure that future enquiries are made direct to Sutton;
- Management of the Claims Portal;
- Reasonable use of resources to gather information internally from Rushmoor in respect of claims handling information and preparation of insurance policy renewals.

Sutton will deliver this within its existing staff structure. The service will be delivered by the team as a whole, rather than having any borough-specific staff. It is envisaged the service will be delivered both from Sutton's Civic Offices and remotely and there will be flexible working arrangements to ensure there is a claims handling presence within Rushmoor if face-to-face meetings are required, for example, to take a witness statement.

Sutton will estimate a cost for year one and the charge will be subject to annual review from thereon. Sutton will provide Rushmoor with a detailed report setting out the basis of the charge. The charge will include:

- a contribution to Sutton's self-insurance fund,
- a share of the external insurance premiums, and
- a proportion of the service costs.

The charge could decrease if external premiums are reduced or the claims experience improves to justify such a reduction. It could also increase for reasons outside of

Sutton's control that would impact all insured irrespective of this agreement. For example, a hardening insurance market that increases the cost of external insurance or an Insurance Premium Tax increase.

Regardless of the cause, both parties may withdraw from the agreement if any of the following situations arise:

1. Sutton's self-insured losses exceed 150% of the total internal funding requirement for the current or preceding periods of insurance, giving six months' notice.
2. The annual charge to Rushmoor exceeds 120% of the preceding charge, giving three months' notice.
3. Either party materially breaches its obligations under the agreement and fails to rectify the breach within a reasonable time.

This proposal is for an initial term until **31 March 2030**. Following that minimum period, the agreement will continue until either party withdraws or formally extends the minimum term. The collaboration agreement will follow the basis used for Sutton's existing borough and district council agreements. Any request for significant changes to the agreement must be resolved prior to the service commencing. The agreement will detail the service standards both parties are required to uphold. Sutton will ensure that all claims correspondence is processed/responded to within seven working days and that all claims are handled in accordance with the civil procedure rules, including the pre-action protocols. If there is not a relevant protocol, the claim will be handled in accordance with the timescales contained in the pre-action protocol for personal injury claims. Technical-based correspondence or any other queries will be dealt with according to the urgency of the matter.

Rushmoor will be responsible for immediately passing all correspondence regarding actual or potential insurance claims unanswered to Sutton. In addition, Rushmoor must respond to all reasonable requests for information in defence of insurance claims within 15 days (5 days for motor) of the request. If required, Rushmoor's officers may be required to provide witness evidence and those officers must assist the investigation and be made available to attend court service to give evidence if so requested. Rushmoor is recommended to retain some internal resources to act as key contact and conduit for information that Sutton cannot source directly and to undertake certain annual and other tasks such as recharging and being the contract manager. How this element is provided is at Rushmoor's sole discretion.

Rushmoor will benefit from:

- A more robust in-house claims handling service that may improve its claims experience.
- Economies of scale when purchasing external insurance policies (Sutton currently procures via joint exercises on behalf of ten local authorities);
- Increased resilience to provide the insurance services.
- A joined-up approach to risk management across Sutton and all the other councils.
- Higher insurance policy limits and best in market policy wordings.

Sutton will benefit from:

- Sharing its service costs and external insurance premiums across a wider base;
- Diversifying the risks covered by its self-insurance fund;
- Increased resilience to provide the insurance services.