

Commissioning and Procurement Executive Committee – 12 November 2024

Subject:	Procurement of building insurance for residential leasehold properties		
Corporate Director: Directors:	Nicki Jenkins - Growth and City Development Geoff Wharton and Sharon Guest – Housing		
Executive Member:	Councillor Jay Hayes - Housing and Planning		
Report author and contact details:	Kim Smith, Leasehold Manager Kim.smith@nottinghamcity.gov.uk		
Other colleagues who have provided input:	David Worthington – Finance Vendie Charles – Legal Lorraine Hodgson – Procurement Jackie Handley – Insurance Risk Manager		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons: <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision			<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Total value of the decision: Up to £1.5m			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/a			
Spend Control Board approval reference number:			
Commissioner Consideration			
Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Any comments the Commissioners wish to provide are listed in section 6 below.			
Wards affected: All			
Date of consultation with Executive Member: 30/10/2024			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living Well in our Communities	<input type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Serving People Well	<input checked="" type="checkbox"/>		
Summary of issues (including benefits to citizens/service users):			
NCC Housing Services need to procure for a new contract for a Building Insurance as the current contract is due to expire on 31 March 2025. NCC are, under the terms of a lease agreement, responsible for arranging Building Insurance cover for Residential Leasehold flats citywide. NCC Residential Lease Agreements contain an explicit clause that make it mandatory for NCC to provide Building Insurance. The Leaseholder agrees to pay a contribution to the landlord costs under the terms of the lease for providing Building Insurance. NCC pay the premium in advance and recharge Leaseholders within their annual Service Charge Accounts			

Exempt information: None

Recommendation:

- 1 To approve tendering for Leasehold Building Insurance for residential leasehold flats held on a long lease, on a 3+1+1-year contract, at a total cost of up to £1.5m.
- 2 To delegate authority to the Insurance and Risk Manager to place insurance cover with the insurer that provides best value on conclusion of the tender process.

1. Reasons for recommendations

- 1.1 There is a legal requirement to tender for the leasehold building insurance policy. It is the intention of the Leasehold Manager, Kim Smith, and Insurance Risk Manager, Jackie Handley, to enter a contract for Leasehold Building Insurance for a period of 5 years on a 3+1+1 contract.
- 1.2 NCC Housing Services Leasehold and Insurance Risk Department need to procure for a new contract for a Building Insurance as the current contract is due to expire on 31st March 2025. NCC are, under the terms of a lease agreement, responsible for arranging Building Insurance cover for Residential Leasehold flats citywide. NCC Residential Lease Agreements contain an explicit clause that make it mandatory for NCC to provide Building Insurance.
- 1.3 The Leaseholder agrees to pay a contribution to the landlord costs under the terms of the lease for providing Building Insurance.
- 1.4 NCC pay the premium in advance and recharge Leaseholders within their annual Service Charge Accounts.
- 1.5 A full procurement exercise is required to ensure NCC are legally compliant, to evidence that best value has been achieved for leaseholders and to ensure we are able to recover the insurance premium from Leaseholders as per the lease agreement.
- 1.6 NCC are required to satisfy the Leasehold Section 20 Consultation Requirements in accordance with Section 20 of the Landlord and Tenant Act 1985 and The Service Charges (Consultation Requirements) (England) Regulations 2003.
- 1.7 Due to the value of the overall contract public advertisement is required and a 60 day consultation period with its leaseholders. We therefore need to commence the procurement exercise in November to ensure there is sufficient time for consultation, the tender and placing of the insurance policy.
- 1.8 To estimate the total contract value an assumed inflation rate of 5% has been applied to the sums insured in 2024-2025, This was £115,105,160.35.
- 1.9 It is also assumed that we are honoured the same rates for the duration of the contract, and it is assumed that (IPT) Insurance Premium Tax does not rise above 12%.
- 1.10 Our current insurers charge £1.79 per £1,000 sum incurred

Assumed 5% increase for 2025-2026 £120,860,418.00 x 1.79/1000 + 12%IPT
= £242,300.96.

Assumed 5% increase for 2026-2027 £126,903,439.00 x 1.79/1000 + 12%ipt = £254,416.02.

Assumed 5% increase for 2027-2028 £133,248,611.00x1.79/1000 + 12% IPT = £267,136.82.

Assumed 5% increase for 2028-2029 £139,911,041.55 x 1.79/1000 + 12IPT = £280,493,66.

Assumed 5% increase for 2029-2030 £146,906,593.63 x 1.79/1000 + 12IPT = £294,518.34.

- 1.11 Estimated contract value could be £1,338,865.80, but due to fluctuating market rates, its very likely the value would be higher than this, the maximum limit for the procurement could reach £1.5m

2. **Background (including outcomes of consultation)**

- 2.1 In 1990 Nottingham City Council updated the covenants of the standard lease agreement for residential flats held on a long lease, with a clause amendment to the way the property should be insured.
- 2.2 The new leases granted removed the responsibility of the Leaseholder insuring the property, and placed the responsibility upon the Landlord NCC, thus giving greater control of properties being insured and assurances that flats in multi-occupancy buildings that contain more than 1 dwelling have the required Building Insurance in place, to protect the structure of that property.
- 2.3 A further clause in the lease allows for recovery of the cost of providing this service.

3. **Other options considered in making recommendations**

- 3.1 Not to provide insurance – rejected as should we not provide the Building Insurance cover, Leasehold properties will not be insured in the event of a claim, leaving the leasehold exposed to a large financial cost of reinstating their property with no insurance cover to pay for the repairs. They would then have a course of action against the Council under a breach of contract in not placing the insurance cover as per the lease agreement.

4. **Consideration of Risk**

- 4.1 There is a legal requirement to tender the building insurance policy. Should we not provide the Building Insurance cover Leasehold properties will not be insured in the event of a claim leaving the leasehold exposed to a large financial cost of reinstating their property with no insurance cover to pay for the repairs. They would then have a course of action against the Council under a breach of contract in not placing the insurance cover as per the lease agreement.
- 4.2 If we do not start procurement by November 2024, we are at risk of not being able to award a contract and administer building insurance in time for the next renewal period, which is 1 April 2025.

4.3 By working with the Council's procurement team we will ensure we are legally compliant in the tender process and by utilising market experts we can ensure we achieve best value in this tender.

5. **Best Value Considerations**

5.1 NCCs expert independent insurance brokers, Griffiths and Armour, will assist the Council with all insurance tenders under a broker agreement, they will utilise their market expertise to generate interest from the market in tendering for this insurance cover.

5.2 There will be no additional fee to assist with this tender.

5.3 The tender will be procured utilising the YPO (Yorkshire Purchasing Organisation) framework which is a procurement framework to simplify and streamline the procurement process for the public sector.

5.4 YPO is publicly owned by 13 local authorities meaning any profits they make get returned to public sector customers to help deliver a better service at a better value for money. All major insurers are signed up to this framework.

5.5 Following leaseholders consultation and the use of external market experts we are confident that the Council will have done all we can to ensure best value when the insurance contract is awarded.

6. **Commissioner comments**

6.1 The Commissioners are content with this report. (31/10/24)

7. **Finance colleague comments (including implications and value for money/VAT)**

7.1 The report requires permission to start the process for the procurement of an Insurance Company to provide building insurance for leaseholders who have purchased their flats. It is a statutory requirement for the Council as landlord to provide building insurance for these leaseholders.

7.2 The current insurance contract will end on 31st March 2025, and it estimated that the value of the new contract will be approximately £1.5m over a 5-year period. The cost of the premiums will be fully recovered from leaseholders and therefore no cost to the Housing Revenue Account.

David Worthington, CPFA Interim HRA Accountant - 18 October 2024

8. **Legal colleague comments**

8.1 This report seeks approval for the spend of up to up to £1.5 million of revenue to a provider sourced through the YPO Framework, to deliver Leasehold Building Insurance for Residential Leasehold Flats held on a long lease for up to 5 years.

8.2 It is an expressed term of Lease Agreements that NCC must provide Leasehold Insurance cover. It is cautious to note that failure to provide the necessary insurance protection would result in NCC breaching a term of the Lease, and thereby this would expose NCC to substantial financial risks should an incident occur, that should have been protected by the insurance policy.

- 8.3 It is prudent for NCC to comply with its obligations under the lease requirements and obtain the necessary Insurance protection to guard against being in breach, which could result in NCC being at substantial financial risk. The report has confirmed that NCC will utilise the assistance of an expert insurance broker, which would support NCC in obtaining best value through this process.
- 8.4 In utilising the YPO Framework, there are standard contractual documents used when accessing services under the YPO Framework and the City Council must ensure that it complies with obligations imposed by such standard contractual documents and continues to act in accordance with the Council's Constitutional requirements.
- 8.5 There are no specific legal concerns arising from this decision and Legal will continue to offer legal support and assist to the client department as required.

Vendie Charles, Contracts and Commercial Solicitor - 21 October 2024

9. **Other relevant comments**

- 9.1 A compliant procurement process to tender a Leaseholder Insurance Policy. Residential Lease Agreements contain an explicit clause that make it mandatory for the council to provide Building Insurance.
- 9.2 The insurance is to be procured with the assistance of an insurance broker at no cost to the council via a compliant framework.

Lorraine Hodgson, Procurement Officer - 11 October 2024

10. **Crime and Disorder Implications (If Applicable)**

10.1 N/A

11. **Social value considerations**

11.1 N/A

12. **Regard to the NHS Constitution (If Applicable)**

12.1 N/A

13. **Equality Impact Assessment (EIA)**

13.1 An EIA is not required because there are no equality impacts in procuring this contract.

14. **Data Protection Impact Assessment (DPIA)**

- 14.1 A DPIA is not required because the processing of data does not involve medical, ethnicity, criminal, biometric, genetic or other sensitive data. The data will only be processed for the purposes of a claim made under the policy.
- 14.2 The only data to be shared will be the insured property, the sums insured and the name of the property owner, and upon a claim the name of the property owner, the property address, the inception date of the policy, sums insured,

whether the property is sublet and whether the premiums have been paid up to date.

15. Carbon Impact Assessment (CIA)

15.1 A CIA is not required.

16. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

16.1 None.

17. Published documents referred to in this report

17.1 Landlord and Tenant Act 1985 Section 20

17.2 The Service Charge Regulations 2003