



Author/Lead Officer of Report: Stephen Bull,
Deputy Strategic Insurance Manager

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Report of: Dave Phillips, Head of Strategic Finance

Report to: Eugene Walker, Executive Director of Resources

Date of Decision: No later than 29 August 2017

Subject: Legal Services for Insurance Claims

Is this a Key Decision? If Yes, reason Key Decision:-

Yes ☒ No ☐

- Expenditure and/or savings over £500,000

☒

- Affects 2 or more Wards

☐

Which Cabinet Member Portfolio does this relate to? *(Resources) Cllr Olivia Blake*

Which Scrutiny and Policy Development Committee does this relate to? Not Applicable

Has an Equality Impact Assessment (EIA) been undertaken?

Yes ☒ No ☐

If YES, what EIA reference number has it been given? EIA Ref 1302

Does the report contain confidential or exempt information?

Yes ☐ No ☒

Purpose of Report:

To approve the commencement of the procurement process to re-tender the Council's existing framework of Legal Service Providers for defendant insurance claims work. The existing contract expires on 31 August 2017.

Recommendations:

The Executive Director is recommended to approve the procurement of Legal Services in respect of insurance claims handling.

Background Papers:

Not applicable

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>(Insert name of officer consulted)</i> Hayley Ashforth
		Legal: <i>(Insert name of officer consulted)</i> Tim Hoskin/David Hollis
		Equalities: <i>(Insert name of officer consulted)</i> Michelle Hawley EIA Ref 1302
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	EMT member who approved submission:	<i>Eugene Walker</i>
3	Cabinet Member consulted:	<i>Cllr Olivia Blake</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Stephen Bull</i>	Job Title: <i>Deputy Strategic Insurance Manager</i>
	Date: <i>05/07/2017</i>	

1. PROPOSAL

- 1.1 The Council's existing framework for Legal services for insurance claims expires on 31 August 2017.
- 1.2 To ensure the required level of expertise is available to the Council for the effective management of claims for compensation and to comply with conditions set by our respective liability insurers a framework of competent providers with relevant expertise is required. The value of the tender is such that the opportunity to tender will be advertised through the Official Journal of the European Union (OJEU).
- 1.3 The selected providers will be regulated by the Solicitors Regulation Authority. The contract will be owned by the Director of Legal Services and a procurement team including insurance and legal colleagues will evaluate bids and agree the award of the contract. Contract management will be the joint responsibility Legal Services and Insurance & Risk. Individual allocation of work on a day to day basis will be with the Insurance & Risk team.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The proposal does not directly affect individuals. Service delivery is central to good financial management of the Council's outstanding and future liabilities and is required to comply with conditions set out in the delegated claims handling authority set out by the Council's insurers.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 The Council is not required to consult on this proposal.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 There are no Equality of Opportunity Implications.

4.2 Financial and Commercial Implications

- 4.2.1 The contract has financial implications in relation to the Council's management of its outstanding liabilities. High quality legal advice in relation to liability and quantum of damages in complex cases and robust and timely handling of claims to repudiation or settlement is critical to financial management of claims expenditure.

It is a requirement of our insurance contract that all claims handling functions are approved by the insurer and this includes the appointment of professionals to assist in the handling of claims. Insurers retain the

right to refuse an appointment and will need to be consulted for sign off at the end of the process.

The value of the current framework is circa £200K per annum though is dependent on the number and types of claims brought against the Council during the contract period.

Where sufficient capacity and relevant expertise is available internally within the Council's Legal Services team we will, subject to insurers' sign off, allocate appropriate work internally. The framework will be used for cases that fall outside these parameters.

The External Legal Services Market with relevant insurance claims handling expertise is extensive enough to generate commercially competitive tenders. When last procured in 2013, 11 companies responded to the initial PQQ with 8 invited to take part at ITT stage.

The Insurance & Risk team will be supported by Commercial Services to ensure compliance with relevant public procurement regulations.

Duration of the contract will be a maximum of 4 years.

4.3 Legal Implications

- 4.3.1 The procurement of these services is exempt from the main competition requirements of the Public Contracts regulations 2015 (by regulation 10(1)(d)). However, the proposed procurement route, by OJEU competitive tender process, is supported, and it is consistent with the requirements of Contracts Standing Orders.

5. **ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 The variety and complexity of the types of claims make it commercially unviable to retain in-house expertise to handle all types of claims for which external legal advice is required. However, where expertise exists and there is capacity we will work with Legal Services to identify claims that can be retained in-house.

The terms of our insurers' delegated claims handling authority requires an agreed framework of providers, and any internal appointments will be subject to the agreement of the Council's insurers and subject to their audit requirements.

The Council's existing external legal framework does not include a specification for insurance claims handling and the award of such contracts was not assessed inclusive of this expertise, and has not been approved by the Council's insurers. Consequently we cannot procure the service via an existing contract.

Litigated claims are unavoidable, so "do nothing" is not an option.

6. REASONS FOR RECOMMENDATIONS

- 6.1 High quality specialist legal services in respect of insurance claims handling is the most effective way for the Council to manage its insurance liabilities.

It contributes significantly to the £22 million of defended claims over the preceding 7 years.

The Council's insurance providers make it a condition of the delegated claims handling authority provided to the Council that appropriate specialist expertise requires their approval. A competitive, specifically targeted tender in terms of relevant expertise satisfies this requirement.