

# **WAVERLEY BOROUGH COUNCIL**

## **EXECUTIVE**

**30 MARCH 2021**

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**Title:**

### **Insurance Collaboration**

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**Portfolio Holder:** Cllr Mark Merryweather, Portfolio Holder for Finance, Assets and Commercial Services

**Head of Service:** Peter Vickers, Head of Property and Finance

**Key decision:** Yes

**Access:** Public

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#### **1. Purpose and summary**

- 1.1 To gain Executive approval to enter into an insurance collaboration with London Borough of Sutton (LBS) including five Surrey Districts and Boroughs to manage insurance administration, jointly procure insurance and pool the insurance policies excess (deductibles). 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 will secure a significant cost saving through economies of scale, increased administrative capacity, expertise and improved business continuity without impacting on the council's overall insured risk exposure.

#### **2. Recommendation**

It is recommended that the Executive approve the collaborative agreement to join the integrated insurance service led by LBS.

#### **3. Reason for the recommendation**

The key objectives for joining the collaboration are to reduce insurance costs, increase policy limits and to increase insurance administration and management capacity to mitigate the council's insurance administrative dependency on an experienced and difficult to replace part time officer.

#### **Current arrangements**

Most of the council's insurance arrangements have been placed with Zurich Municipal for a significant number of years which expired on 30 June 2020 and extended until 30 June 2021 in anticipation of joining the LBS collaboration to procure and manage insurance. The cost of the council's main insurance programme is above the Official Journal of the European union (OJEU) services threshold (2021/22 £189,330) and must be re-procured having come to the end of its tendered 5+1 year contract term.

The total annual main insurance programme premiums for the last four years is shown in the table below. It is evident that the cost of insurance has contributed a sizable above inflation upward cost pressure on the council's finances.

Year	Amount
2017/18	465,000
2018/19	488,000
2019/20	495,000
2020/21	512,000

The council has sought insurance market advice from its broker (Marsh) and has been advised that local authority insurance premiums are rising rapidly with less cover being available. The main drivers for the hardening market are uncertainties over the impact of covid and brexit and the spiralling cost of insurers purchasing re-insurance. Insurers are also seeking to cap their exposures to catastrophe cover by imposing lower limits of indemnity on their policies. Marsh advised that local authorities should anticipate increases of 12.5% – 17.5% (and possibly more for certain insurers) across all classes of business (particularly liability and property) for renewals this year. There is limited scope to influence the increase in premiums other than to accept a higher deductible (excess) and lower policy cover, resulting in increased financial risk/cost to the council.

### **Procurement Options**

There are limited options available for procuring insurance, managing the cost of insurance and mitigating risk.

The options available are:

1. A full OJUE tender – time frame 6 months - will be challenging in the current insurance market as described in the market report from Marsh, Annexe 1
2. Procuring from a framework – time frame 3 months - will enable some negotiation to renew with Zurich
3. Collaboration with LBS – time frame 3 months - recommended in this report

### The council's ten year claims experience

Officers engaged in collaboration discussions with LBS in early 2020 to explore the mutual compatibility of the insurance collaboration led by LBS. This entailed LBS completing a full and detailed review of the council's claim's experience for the last ten years. The results of that review are included the table below which shows that over the last 10 years the council's claims experience has been stable, only ten claims were over £25,000 value.

10 year average
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Policy	Minimum annual claims	Maximum Annual claims	Average Annual Claims	Minimum annual payment	Maximum Annual payment	Average annual payments £
EL, PL, OI	10	29	15	626	102,164	32,830
Motor	5	14	7	1,797	8,671	3,838
Property	2	10	5	0	*353,105	54,451

EL, PL, OI: Employers Liability, Public Liability, Officer Indemnity

\* This figure includes a claim for flooded properties settled at £533,938 but capped at £250,000 for purposes of comparison to LBS pooled excess limit.

Claims over £25,000 in last 10 years		
<b>Public Liability</b>		
Year	Description	Total £
2010-11	Tree root subsidence damage to property	48,682
2012-13	Fall due property repair	47,708
2012-13	Fall on footpath	52,381
<b>Property</b>		
Year	Description	Total
2011-12	Fire in kitchen - dishwasher	58,398
2013-14	Fire in one bedroom bungalow	37,193
2013-14	Flooding to properties 34-41 & 54-58	533,938
2013-14	Flooding to properties (no's 1, 44,45,48)	65,240
2016-17	Fire - suspected electrical fault - roof	42,382
2016-17	Flooding of boiler room and loss of electricity supply	37,460
<b>Crime</b>		
Year	Description	Total
2013-14	Supplier invoice impersonation fraud	73,537

Under the current insurance arrangements, the policy deductible element of a claim (excess) is funded from the insurance reserve except for a small department charge. A summary of the policy coverage is included on [Annexe 2](#).

#### Detail of policy excesses

All liability claims (PL Public Liability, EL Employers Liability and OI Officials Indemnity) are subject to an excess of £5,000, this is split internally by the council with £500 departmental excess charged to the service area budget responsible for the claim and the balance of £4,500 is funded from the insurance reserve. Housing claims get charged to the Housing uninsured loss provision in the HRA.

Motor Claims, fleet vehicles have an excess of £250, contract cars have an excess of £200 (except for windscreens which is nil), and where the driver is responsible the excess is recharged/recovered from the driver.

Property, general property excess is £5,000 (again split £500, £4,500 as with liability claims), Housing excess is variable depending on causation.

## **LBS integrated insurance service collaboration**

### **Background**

LBS operates an integrated insurance services (since 2012) for itself and five Surrey local authorities, namely Epsom and Ewell Borough Council, Surrey Heath Borough Council, Reigate and Banstead Borough Council, Tandridge District Council and Spelthorne Borough Council through a collaboration agreement and procures external insurance (for all parties to the collaboration) through a nine London borough consortium to gain economies of scale. The specific arrangements are detailed below.

### **How the collaboration works**

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 Waverley's claims within the collaborative insurance programme. Claims up to the value of £250,000 for Liability and Property and £100,000 for Motor will be handed by the pooled fund, claim 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 below). Waverley will pay an annual contribution into the self insurance fund and a share of the collective externally placed policies, the only additional cost to Waverley will be the excesses listed in [Annexe 3](#) and summarised in the table below. This is in line with the current practice of excesses being charged to departments and the insurance reserve.

Public Liability	£0
Employers' Liability	£0
Officials' Indemnity/Professional Negligence	£0
Property	£250
Property - Money	£100
Property - Subsidence	£1,000
Crime/Fidelity Guarantee	£5,000
Motor - Own Damage	£250
Motor - Third Party	£0

The council's current insurers will continue to be liable for claims with an incident date prior to 1 July 2021 (i.e. up to the expiry date of their cover), LBS will manage any claims for Waverley. LBS collaboration will assume liability for all claims with an incident date of 1 July 2021 or later (i.e. from the date Waverley are covered under

the LBS programme) internally up to its policy excess (£250k and £100k), claims beyond this are handled by LBS's externally placed policies. Waverley will be added to these external policies, included in [Annexe 3](#).

LBS's insurance team will also provide the following additional services, providing a significantly enhanced insurance administration capacity:

- Assistance with relevant FOI requests, complaints and members enquiries.
- Provision of management reports and data as agreed.
- Attendance at biannual client meetings in Waverley (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 LBS.
- Management of the Claims Portal.
- Reasonable use of resources to gather information internally from Waverley in respect of claims handling information and preparation of insurance policy renewals

The LBS team structure is included on [Annexe 4](#) for information.

### **The Collaboration agreement**

The councils will agreed to establish joint working arrangements to facilitate and co-ordinate the improvement, efficient and economical discharge of their insurance function in which LBS will act as the lead authority. The joint working relationship will be governed by a Collaboration Agreement that sets out the terms and the scope of the councils' co-operation.

The Councils agreed common goals and objectives throughout the course of the Collaboration Agreement include:

- Improving mutual efficiency by Waverley utilising LBS's established insurance expertise and LBS improving efficiency by spreading service costs over a wider base.
- LBS to commit resources in delivering day to day insurance guidance and claims handling to deliver an efficient and effective service to include periodic reporting, high level claims performance data and contract review meetings.
- Develop long term strategies for the most economic, efficient and effective provision of insurance cover.

In order to achieve these objectives, the Councils agree that they will work together with mutual trust, good faith and in an open, co-operative and collaborative manner and agree as a general principle that they will act in a spirit of mutual partnership and co-operation in respect of this Collaboration Agreement.

### **Collaboration terms**

The Collaboration Agreement will be for an initial 4.75 year term commencing on 1<sup>st</sup> July 2021 until 31 March 2026 and thereafter until terminated by either party on giving not less than twelve months prior written notice. No party can withdraw from the Collaboration Agreement before 31 March 2026 except for the following clauses:

- LBS may give 6 months' notice of withdrawal ahead of the end of the financial year should paid self-insurance losses exceed 150% of the total internal funding requirement for the current or preceding periods of insurance.
- Waverley may give 3 months' notice of withdrawal ahead of the end of the financial year should the proposed annual charge exceed 120% of the preceding annual charge.
- Either party shall have the right to terminate this Collaboration Agreement if the other party is in material breach of its obligations and fails to rectify that breach after having been given a reasonable opportunity to do so.

The three clauses above are designed to protect all councils within the pooled self insurance fund arrangement in the event of an individual councils' escalating claims experience. These withdrawal clauses provide an option to terminate as a last resort and is not a compulsory termination for example resulting from a single catastrophe claim event, in reality this will trigger a premium adjustment that Waverley can market test.

In the event of a withdrawal the Integrated Insurance Service will remain liable for any claims with an incident date within the collaboration period.

### **Budget/costs**

The collaboration is not for profit and LBS charge a contribution towards its insurance administration service. This arrangement allows all parties to benefit from economies of scale and the pooling of risks and has seen a 13% reduction in annual insurance charge from LBS since 2016/17 in addition to the initial saving upon joining and the year on year inflation savings.

The annual charge for 2021/22 will be as follows:

<b>Policy/Service</b>	<b>2021/22 Cost</b>
External Premiums	£177,500
Property Claims Funding	£150,000
Liability Claims Funding	£56,300
Motor Claims Funding	£8,000
Service Costs	£52,400
<b>Grand Total</b>	<b>£444,200</b>

The charge for 2021/22 on a 9-month pro rata basis would therefore be £333,200. The full year charge is a net reduction on the estimated 2020/21 projected renewal premiums of between £132,000(actual saving £68k + inflation avoided @ 12.5% = £64k) and £158,000(actual saving £68k + inflation avoided @ 17.5% = £90k). So, this is an immediate full year budget saving of £68,000 and a cost avoidance of between £64,000 to £90,000. The savings will be prorated between the General Fund and

HRA on a 55/45 basis.

The charge includes a contribution to the self-insurance fund (£9,545,900, March 2020), a share of the external insurance premiums and a proportion of the service costs as shown in the table above. LBS assume liability for this fund in the event of it being under provided.

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 LBS'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.

Additional savings can be achieved from the eventual release of the insurance broker (Marsh), saving £2,000 per year, and the insurance administrative software licence £2,500 per year.

The collaboration also increases our insurance service capacity whilst delivering a significant saving. LBS will add claims handling capacity for circa 25 self-handled claims from within its existing staff structure (see [Annexe 4](#)). The service will be delivered by the team as a whole, rather than having any borough specific staff. It is envisaged the service would, subject to COVID-19 restrictions, be provided primarily from LBS's Civic Offices but there would be flexible working to ensure there is a claims handling presence within Waverley if face-to-face meetings are required, for example to take a witness statement. LBS will also commit considerable time undertaking operational risk and technical improvements during the implementation period.

Waverley carries a significant insurance reserve to cover claims excess. The claims experience over a ten year average shows that this level of reserve is overprovided although this cannot be immediately released until all open claims (currently 20) have been resolved. The evaluation of a suitable provision can be completed as part of a wider reserves review scheduled on the value for Money and Customer Service Scrutiny Committee work programme.

## **Risks**

LBS and the 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 Surrey authorities and experience of working with them since 2012. Waverley has no unique features from an insurance risk perspective that would incur any complication based upon the in-depth review completed by LBS.

Due diligence on LBS financial security indicated that LBS is financially sound. LBS had a General Fund net budget of £144million for 2019/20 and their outturn against this was £500,000 underspent. Their biggest budget pressure is as expected, Adult Social Care and Children's Services, with a net budget of £89million and an outturn overspend of £433,000. Their Medium Term Financial Strategy shows a cost pressure of £22million pre Covid over three years which is not significant against their net budget of £144million and General Fund balance of £7million.

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 was used to develop the collaboration proposal and pricing.

References have been taken up from all five Surrey authorities participating in the collaboration and all are positive about the quality of the administrative service and Value for Money of the pooling and external premiums being achieved.

LBS will indemnify Waverley against any loss occasioned as a result of negligence or omission as Lead Authority in respect of conducting Waverley's insurances covered under the collaboration agreement. In addition, LBS will not indemnify Waverley 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 Waverley. 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.

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 Waverley which pre-date this Collaboration Agreement, those losses are to be funded by Waverley in accordance with the terms, conditions and exceptions of Waverley's previous contracts of insurance. Decisions to agree settlement will be referred with recommendations by LBS to Waverley's Insurance Officer.

#### **4. Background**

4.1 Not required, covered above.

#### **5. Relationship to the Corporate Strategy and Service Plan**

5.1 Adequate insurance provision, risk management and value for money underpins all aspects of the Corporate Strategy.

#### **6. Implications of decision**

##### **6.1 Resource (Finance, procurement, staffing, IT)**

Included in the report

##### **6.2 Risk management**

Included in the report

##### **6.3 Legal**

Under the Public Contracts Regulations 2015 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.

Pursuant to sections 9E, 9EA and 9EB of the Local Government Act 2000 the Secretary of State may by regulations 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 executive of a local authority. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 permit such arrangements.

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 this Collaboration Agreement to establish a relationship between the authorities in relation to the provision of an Integrated Insurance Service.

#### **6.4 Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

#### **6.5 Climate emergency declaration**

The savings in this proposal contributes to the mitigation of the significant cost pressures the council is facing and therefore helps to support the council fund the climate emergency declaration financial implications.

### **7. Consultation and engagement**

- 7.1 Portfolio Holder for finance has been consulted, and references taken from the five Surrey districts and Boroughs already participating in the collaboration.

### **8. Other options considered**

- 8.1 Included in the report

### **9. Governance journey**

- 9.1 Management Board 23<sup>rd</sup> Feb  
Portfolio Holder 23<sup>rd</sup> Feb  
Executive briefing 9<sup>nd</sup> March  
Executive 30<sup>th</sup> March

### **Annexes:**

Annexe 1 – MARSH: State of the Insurance Market: Implications for the Public Sector  
Annexe 2 – Existing policy schedule  
Annexe 3 – LBS insurance policies  
Annexe 4 – LBS insurance team structure chart

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### **Background Papers**

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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Agreed and signed off by:

Legal Services: 11 March 2021

Head of Finance: 18/02/2021

Strategic Director: 11 March 2021

Portfolio Holder: 11 March 2021