

TRAFFORD COUNCIL

Report to: Executive
Date: 29th October 2018
Report for: Decision
Report of: Executive Member for Finance

Report Title

Establishment of new Local Government Mutual

Summary

This report sets out the details in relation to the establishment of a Local Government Mutual which will offer comparable cover against insurable risks to local authorities at competitive rates. The aim is to provide a cost effective alternative to the conventional insurance market products and services available to local authorities. Under the proposals, which are supported by the LGA, it is proposed that a number of authorities will become Founding Members of the mutual. Those Founding Members will then oversee and make strategic decisions in respect of the build phase activity pending the organisation commencing trading as a mutual. The report also covers the requirement for the sharing of relevant risk transfer and protection data with Local Government Mutual and its suppliers and contractors working on the project on a strictly confidential basis and for a report to be brought back to the Executive at a later date once the business case for utilising the mutual has been further developed and considered by officers.

Recommendation(s)

The Executive is recommended to:

- a) Support the Council's participation as a Founding Member of Local Government Mutual and nominate the Leader and Executive Member for Finance to be Founding Member committee members;
- b) Authorise the Chief Financial Officer to share the Council's relevant risk transfer and protection data with the LGA officers working on the project on a strictly confidential basis; and
- c) Note that officers will consider the business case for utilising the Mutual at the appropriate time and to request them to report accordingly to the Executive on the same prior to any further decision being taken in relation to participation in the Mutual

Contact person for access to background papers and further information:

Name: Jane Le Fevre
Extension: 4215

Background Papers: None

Relationship to Policy Framework/Corporate Priorities	Value for money and low council tax
Relationship to GM Policy or Strategy Framework	None
Financial	<p>There are no direct financial implications arising from this report.</p> <p>Should an insurance mutual be established any decision to insure through the mutual would be the subject of a business case and further report to the Executive.</p>
Legal Implications:	<p>Local authorities have a legal power to participate in a company for a commercial purpose under sections 1 and 4 of the Localism Act 2011 or for trading under section 95 of the Local Government Act 2003.</p> <p>The mutual company will be a "body governed by public law" under the Public Contracts Regulations 2015 and will therefore have to comply with public procurement law when letting its contracts and as a company wholly owned by local authorities, the company will be subject to the Freedom of Information Act.</p> <p>As a Founding Member ("FM") the Council would be bound by the terms of the Articles of Association of the Mutual. The current draft of the articles state that while they are members or FMs and for a year after they cease to be a member or FM, they will contribute £100 towards:</p> <ul style="list-style-type: none"> (a) payment of the mutual's debts and liabilities contracted or incurred before it ceases to be a member or FM; (b) payment of the costs, charges and expenses of winding up; and (c) adjustment of the rights of the members and FMs among themselves. If a FM decides to become a member of the mutual at a later stage, they will be liable to the mutual for the £100 stated above. <p>Under the current draft of the articles, article 25 states that:</p> <ul style="list-style-type: none"> (a) A FM may withdraw from membership of the mutual at any time by providing notice in writing to the mutual. (b) A member may only withdraw from membership of the mutual in accordance with the Rules. We have not reviewed a copy of the Rules. <p>Any contracts entered into before incorporation of the mutual by a FM could be seen as being entered into personally by the FM or as agent for the company. Once the mutual is incorporated, these contracts should be transferred to the mutual. The FM could be liable for any contracts that do not or have not transferred to the mutual.</p> <p>Authorities should be vigilant that they do not confer any benefit on the mutual company (such as insurance contracts which are in excess of market rate (which information may be available from local authorities' insurance officers or CIPFA), loans, accommodation, use of intellectual property rights/brand, provision of staff, guarantees of the mutual's liabilities, grants etc.) which</p>

	would have the potential effect of distorting competition and therefore be potentially vulnerable to challenge or complaint as to unlawful state aid. If in doubt as to whether a transaction is "on market" or not, independent valuation advice should be sought from an external accountant at that stage.
Equality/Diversity Implications	None
Sustainability Implications	None
Resource Implications e.g. Staffing / ICT / Assets	None
Risk Management Implications	As indicated in report
Health & Wellbeing Implications	None
Health and Safety Implications	None

1.0 Background

Councils currently spend hundreds of millions of pounds on insurance nationally. The LGA has been exploring options to develop a cost effective alternative to the conventional insurance market products and services available to local authorities.

A phase of research has been undertaken with a board range of local authorities including interviews with LGA members, analysis of the current insurance models and talking to key providers in the market. A viable potential alternative identified is pooling the risk of LGA members to form a discretionary mutual, where all surpluses are retained in the mutual.

The LGA wanted to work with a small number of leading authorities with a view to developing a new Mutual for local government which will aim to offer comparable cover to LGA members at a competitive rate. The Mutual would be owned and controlled by its members, and professionally managed by FCA authorised industry experts.

Over the summer the LGA has been inviting local authorities to become Founding Members of Local Government Mutual. The LGA will also be a founding member and help develop the new Mutual.

Founding Member tasks

A company such as Local Government Mutual acts through two bodies of people – its members and its board of directors.

The tasks of the Founding Member will in the ordinary course of events be limited to:

- i) Subscribing to the memorandum of association of Local Government Mutual in order to incorporate the company; and
- ii) Adopting the Mutual's Rules and new Articles of Association which will convert Local Government Mutual to mutual trading status and allow it to accept risks.

The tasks of the Local Government Mutual will be, *inter alia*

- a) Procure the Mutual management services;
- b) Procure supporting insurance arrangements;
- c) Adopt a business plan, prospectus and member admissions process; and
- d) Have general oversight of the build activity.

Risks

No contribution to the new Mutual's set-up costs is sought from the Council. There is no obligation on the Council to utilise the Mutual subsequently. Liability on the part of the Council is limited to the £100 guarantee to be paid to acquire Founding Member status.

Conclusion and recommendations

Local Government Mutual aims to offer the prospect of affordable, high quality risk transfer and risk management through a mutual structure for the benefit of the local government sector. It may make a valuable contribution to sector-wide efficiencies and financial stability. Participation in the manner described above allows the Council to contribute to the establishment of the new Mutual without exposing itself to any financial or operational risk.

The Executive is recommended to:

- a) Support the Council's participation as a Founding Member of Local Government Mutual and to nominate the Leader and Executive Member for Finance to be Founding Member committee members;
- b) Authorise the Chief Financial Officer to share the Authority's relevant risk transfer and protection data with the LGA officers working on the project on a strictly confidential basis; and
- c) Note that officers will consider the business case for utilising the Mutual at the appropriate time and to request them to report accordingly to the Executive on the same prior to any further decision being taken in relation to participation in the Mutual

Other Options

Not to participate in the proposed scheme as a Founding Member.

Consultation - N/A

Reasons for Recommendation – to enable the Council to participate in the proposed scheme and to oversee its development.

Key Decision (as defined in the Constitution): No
If Key Decision, has 28-day notice been given? No

Finance Officer Clearance (type in initials).....NB.....

Legal Officer Clearance (type in initials).....JLF.....

[CORPORATE] DIRECTOR'S SIGNATURE (electronic).....

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.