

Meeting: Cabinet **Date:** 21 November 2023

Wards affected: All

Report Title: Contract Award in respect of Cyber Insurance

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Director Contact Details: Matthew Fairclough-Kay, Director of Corporate Services, Matthew.Fairclough-Kay@torbay.gov.

1. Purpose of Report

- 1.1 The Council's insurance against Cyber attacks expires on 30th November 2023. The Council following competitive market testing via our Insurance Brokers needs to negotiate and agree terms and conditions to insure the Council for Incident Response Costs following a Cyber attack.
- 1.2 The report seeks delegated approval to award the contract for the purchase of suitable insurance cover that would cover Cyber attacks against the Council.

2. Reason for Proposal and its benefits

- 2.1 The reasons for the decision are mainly financial. Insuring the Council against possible losses following a cyber attack ensures that the Council has adequate provision for incident response costs:- Legal and Regulatory Costs, IT Security and Forensic costs, Crisis Communication costs, Privacy Breach Management costs, System and Damage Rectification costs, Direct Loss of Profits and Increased Cost of Working, Network Security & Privacy Liability, Management Liability, Regulatory Fines, PCI Fines, Penalties and Assessments, Media Liability, Intellectual Property Rights Infringement and Court Attendance Costs.

3. Recommendation(s) / Proposed Decision

1. That the Director of Corporate Services be given delegated authority to enter into a contract with the preferred bidder that provides the most suitable terms and conditions of insurance in the event of a cyber attack.

Appendices

None

Background Documents

None

Supporting Information

1. Introduction

- 1.1 The UK insurance market has experienced a severe rate correction over the last few years after a long period of overly competitive pricing, which eventually became unsustainable. As a response to the lack of profitability, many insurers withdrew from the market entirely, consolidated their exposures or merged to reduce their cost base. Those that remained responded sharply by reducing capacity, narrowing their risk appetite and limiting their exposure. This has created very hard market conditions, as competition almost disappeared for some insurance products and trade sectors. The implications of a Cyber attack are significant, the impact would cripple the Council service delivery and data being leaked to the Dark Web and used for criminal activity would be significant for our residents and reputationally incredibly damaging. It is therefore imperative that the Council has the level and type of insurance necessary against incident costs as a result of a cyber attack. Insurance against a cyber attack has always be a high risk insurance for insurers with a very limited number of products available and the Council are required to demonstrate levels of control measures that are in place to prevent a cyber attack, such as adherence to best practice with end to end encryption, dual factor authentication and the 24 hour cyber security operations centre monitoring contract that was awarded by Cabinet in August 2023.
- 1.2 Historically, the Council has undertaken a public procurement exercise which was unsuccessful and generated no interest from any insurer, a situation which had been experienced by colleagues in other Local Authorities. Subsequently agreement was sought to deviate from standard procurement methods and an insurance broker was engaged to seek terms and conditions of insurance that provided adequate insurance cover to provide reassurance that the Council is covered in the event of a cyber attack.
- 1.3 Given that this route was successful in the past procurement and that the hard insurance market with few suppliers willing to provide insurance terms continues, it will be necessary to undertake again the above alternative to market facilitated by the Authority's Insurance Broker.

- 1.4 The terms of possible insurance cover are still being negotiated hence the request for Cabinet to delegate authority to the Director of Corporate Services to award the contract to the preferred insurance supplier.

2. Options under consideration

- 2.1 Option 1 - Award to the preferred supplier – recognising that market conditions are very challenging.
- 2.2 Option 2 – Not to award to the preferred supplier. The Council would be uninsured in the event of a cyber attack which could leave the Council exposed to considerable financial and reputational risk.

3. Financial Opportunities and Implications

- 3.1 An open market procurement is unlikely to secure any competitive insurance quotations. Therefore, given the challenging market conditions the Insurance Broker route to the Cyber Insurance Market is the best opportunity the Authority has in being able to secure insurance terms that provides adequate cover. The new premium, circa £150k will be funded from within the existing corporate insurance budget.

4. Legal Implications

- 4.1 None

5. Engagement and Consultation

- 5.1 Colleagues across the Council have been consulted in terms of the requirements of insurance cover.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 Social Value is not included in this proposal because this procurement significantly competitive in a very challenging market.

7. Tackling Climate Change

- 7.1 N/A.

8. Associated Risks

8.1 The implications of a cyber attack are significant in themselves, the impact would be the crippling of Council service delivery and data being leaked to the Dark Web and used for criminal activity. Due to the challenging market there is a risk that terms of insurance may not be available or are not as comprehensive as the Council would like to mitigate all risks of a potential Cyber Insurance attack.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			There is no differential impact
People with caring Responsibilities			There is no differential impact
People with a disability			There is no differential impact
Women or men			There is no differential impact
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			There is no differential impact
Religion or belief (including lack of belief)			There is no differential impact
People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact
Public Health impacts (How will your proposal impact on			There is no differential impact

the general health of the population of Torbay)			
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10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None