

«LEASE_PARTIES_»
/The Current Lessee(s)
«ADD_1»
«ADD_2»
«ADD_3»
«ADD_4»
«ADD_5»
«ADD_6»

Property Reference: «PROP_REF»
Property Address: «PROPERTY_ADDRESS»
Scheme Reference: INSURANCE_2022/23
Date: 18 January 2023

Dear «LEASE_PARTIES_»/ The Current Leaseholder(s),

Renewal of leaseholders' buildings insurance contract –more information, please read carefully

I wrote to you on the 1 August 2022 to consult with you on the proposed procurement for the renewal of leaseholders' building insurance. This letter is the second and final part of that consultation process and relates to the future service charges which Lambeth may recover from homeowners in respect of buildings insurance.

The London Borough of Lambeth proposes to accept the tender from **Arthur J Gallagher /NIG Insurance** from the 1 April 2023 to the 31 March 2028.

This notice is served under Section 20 of the Landlord & Tenant Act 1985 (as amended by section 151 of the Commonhold & Leasehold Reform Act 2002) and Regulation 5(2) and Schedule 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003 (the "2003 Regulations").

Full Details of Proposed Supplier

The registered office for Arthur J Gallagher is Spectrum Building, 7th Floor, 55 Blythswood Street, Glasgow G2 7AT. The company number is SC108909, and Arthur J Gallagher is a member of the following professional bodies and either abides by the requisite code of practice or has obtained accreditation by the body:

- Association of Insurance and Risk Managers (AIRMIC)
- British Insurance Brokers Association (BIBA)
- Association of Consulting Engineers (ACE)
- Institution of Civil Engineers (ICE)

- ALARM (The Public Risk Management Association),
- BVCA (British Venture Capital Association)
- British Property Federation (BPF)
- Royal Institute of British Architects (RIBA),
- BExA (British Exporters Association),
- UK Registrars Group (UKRG), Museums Association, Maritime London
- Alternative Investment Management Association (AIMA).

Pricing Schedule

A breakdown of what this means for you is shown below. For example, if you have a 2-bedroom property, your estimated premium in the first year will be £512.78.

No of Bedroom	Premium
0	263.01
1	263.06
2	512.78
3	757.34
4	999.60
5	1,230.43
6	1,468.41
7	1,708.32
8	1,942.69

The unit costs include Insurance Premium Tax currently at 12%, the inflation factor to the sums insured currently at 20% and the administrative costs from the Risk and Insurance Team, frozen at £15 per annum. An inflationary figure will be updated annually based on advice from an independent body, the Royal Institute of Chartered Surveyors, and our Insurers. For more information on the proposed contract please visit: <http://bit.ly/S20BoroughwideConsultation>.

Connection between London Borough of Lambeth and the Proposed Supplier

For the purposes of paragraph 4(3) of Schedule 2 of the 2003 Regulations, there is no connection between the Landlord and Arthur J Gallagher /NIG Insurance.

Observations

You may have already been in contact, but now that you have more information, you may wish to get in contact again. If you do, I invite you to send in your written observation in relation to the proposed contract. Your observation (should you choose to send one in) must be delivered to the address below by the **22 February 2023**. This allows for 30 days consultation and a further 5 days for postage time. In total, this is 35 days from the date of this letter and when the relevant period ends.

Below are some ways you can send in an observation if you choose to.

- Online via our E-Form: <http://bit.ly/S20eform> or alternatively, scan the QR code at the end of this letter.



- Email S20Consultaton@lambeth.gov.uk
- Write to: S20 CONSULTATION, London Borough of Lambeth, PO Box 734, Winchester, SO23 5DG.

If you choose to contact us, please include reference INSURANCE_2022/23 and make it clear you are sending in a Section 20 Observation. By doing this, you are ensuring it gets to the correct team quickly.

Alternatively, you may find it easier to call and speak with someone directly. Our friendly team are here to answer any questions you have. You can call the team directly on 0207 926 6521 Monday to Friday 9am to 5pm.

Please do take the time to watch a short (5 minute) film which explains what a Section 20 notice is and what this means for you: <https://bit.ly/S20Film>.

What happens next?

Send you a Notice of Intention.	Complete
Hand over to London Insurance Consortium and advertise for bids on 'Find a Tender Service'	Complete. This can be viewed here: www.find-tender.service.gov.uk/Notice/027751-2022
Assess all bids for cost and quality to identify a preferred bidder	Complete.
Seek approval of a preferred bidder from Lambeth's Cabinet.	Complete
Send you a Notice of Proposal. View this short film explaining what a Notice of Proposal is: https://bit.ly/S20Film	Complete
Award the contract to the winning bidder	Anticipated March 2023
Mobilise the contract	1 April 2023

Thank you for taking the time to read this letter carefully.

Kind regards

Karen Kellaway

Karen Kellaway
Major Works Income Team Manager
Housing Capital and Asset Management



Summary of Observations

Observations were received in response to the letter dated the 1 August 2022 and a summary of these, along with the responses are below.

An updated set of frequently asked questions can be found here:
<http://bit.ly/S20BoroughwideConsultation>.

The current Leaseholders' buildings insurance contract has not served Leaseholders well. It has resulted in reduced protection at a higher cost. There are a number of examples of this, such as that the premium we pay has increased very substantially more than inflation and an excess of £500 has been imposed on every claim other than for subsidence.

Within the existing insurance contract our cover protection has not reduced. An excess was imposed by the current insurers in 2020 due to the deterioration of the claims experience. The phrasing 'claims experience' relates to the number of claims Leaseholders have reported to insurers along with other factors such as the amount at which claims are settled and the financial losses to insurers all these factors are considered in order to calculate the cost of the premiums and excesses. Premium rates have increased along with the sums insured which are subject to index linking in line with Royal Institution of Chartered Surveyors. Despite any increases, the council feels that the policy continued to remain good value for money, in terms of other policies that were available on the market at that time.

This insurance is unlike other contract procurements carried out by the Council where leaseholders are required to contribute to the cost. In all other contracts the contract is intended to benefit both leaseholders and council tenants. The Council is not reimbursed (at least not directly) for ALL the costs incurred under those other contracts. In the case of this insurance, it is only the leaseholders who contribute to the cost so the Council is taking no risk by entering into a leaseholders' buildings insurance contract. Please confirm that my understanding is correct.

The council as freeholder has an interest and a risk as owners of the freehold. Under the terms of the lease Lambeth are responsible for insuring the property and to comply the council undertakes a compliant competitive tender process. All leaseholders contribute to their cost of insuring their property.

Accordingly, the Council has very little interest in the terms of the contract other than to make sure that it procures insurance that complies with our leases. If you disagree with this statement, please explain.

The council has an interest in the terms of the insurance contract. If leasehold properties are not fully insured as per the lease Lambeth would be liable for any short fall which could lead to substantial financial costs hence, we make sure the insurance policy is fit for purpose for all concerned and by undertaking a tender the most competitive available within the market is obtained.

The way the Council procured the existing NIG contract was via the London Insurance Consortium, and you are proposing the same process this time. This method of procurement means that the Council has no say in what goes into the contract and in all probability will accept the contract which quotes the lowest premium. If you disagree, please explain.

We shall be using the same process in conjunction with Aon Brokers who are insurance professionals. We have a say regarding the contract nevertheless it is an insurance policy which has standard cover and policy conditions within them, we can negotiate in areas however we cannot rewrite policies.



Price will be a factor along with policy cover. Brokers will assist in reviewing the cover being offered to make sure it is fit for purpose. If a bidder provides the lowest quotation and the cover is substandard, we wouldn't accept the tender.

As it is the Council which is proposing the particular insurance contract and as Leaseholders have no say in the preferred bidder, or in the terms of the policy, it is submitted that the Council owes a particular duty of care to leaseholders both to get the best insurance terms reasonably possible and to explain what these are through the section 20 consultation.

By the very nature of receiving this Observation you have had a say in the first steps of procuring a new contract. This will happen again at the next stage where you will have a further opportunity to provide your Observations on the proposed bidder. The contract can't be awarded until all Observations are responded to with due regard which is why we value input from leaseholders in this process.

The council are seeking to procure a contract on similar terms however we do not yet know who our provider will be, or the precise terms proposed in the contract. When we do, we will advise all leaseholders through the second stage of consultation. Lambeth will get the best insurance terms reasonably possible balanced against the cost we will ask leaseholders to contribute within their service charges.

Once the tender process is complete and the next stage of consultation begins, any related documents will be available here: <https://beta.lambeth.gov.uk/housing/housing-repairs/major-works-your-home/boroughwide-consultation>. Documents designated as confidential by tenderers are prohibited from being disclosing by s21 of the Public Contracts Regulations.

Excess and increased premiums. Under the current NIG contract there is an endorsement as follows: "The cover may be amended at any time to reflect a change in the trend of the business." NIG has used this provision both to impose the £500 excess and to increase the premiums. In the information provided by the Council in the section 20 consultation which resulted in the current NIG contract, no mention was made of this provision or of the possible effect it might have on matters such as premiums and excesses. When challenged on this omission the Council said that it was up to leaseholders to have arranged to inspect the documents so there was no reason to complain. If you disagree with this, please explain.

Bearing in mind the obscure language of the endorsement quoted above and the serious consequences that have followed from it, please confirm that if there is to be any similar endorsement or provision in the contract now to be procured, the Council will inform leaseholders and not simply say that it is up to leaseholders to inspect the documents.

Please also tell me what steps the Council will take to avoid or minimise the adverse effects of provisions such as the one quoted above. As the Council has sought to explain that the wording quoted above has a very wide meaning, justifying the imposition of an excess and the increase in premiums, and as it is far from certain that the words quoted allow such things, please explain why it is that the Council, instead of coming to the aid of leaseholders and challenging NIG on the meaning of those words, chose rather to support NIG and dismiss the concerns of leaseholders?

"The cover may be amended at any time to reflect a change in the trend of the business" is a standard clause and cannot be removed from policy wording. The only way to minimise activating this insurance policy clause is to try and keep the claims experience down to an acceptable level during the life of the contract. The council did challenge NIG when the excess was imposed, however due to the claims experience they would not agree a lower excess. Lambeth did not 'support' NIG as you suggest, rather, Lambeth contractually complied with the terms of the contract.

I am not aware of who noted to you 'that it was up to leaseholders to have arranged to inspect the documents so there was no reason to complain'. What I can advise is the Section 20 notice



complied with the required regulations and it would not have been feasible to include terms and conditions in detail.

With regards to 'similar endorsement or provision in the contract', I can't presume which clause, regulation, or terms of reference you would deem similar. What I can advise is any related documents not prohibited under S21 (referenced in answer 5) will be available online for your review. I take note the increase imposed within the current contract has weighed upon your Observations and so, I will ensure the FAQs to accompany the second stage of consultant refers to this area of concern for you.

At this stage, the council cannot guarantee that any insurer would not increase their rates or impose terms at renewal as this is dependent on how the contract is performing and the cover terms offered.

Accidental Damage. In the NIG contract "Accidental damage" is defined as: "Damage caused by external and visible means, other than a deliberate act by you or Members of Your Family". The language of this is far from clear. What is meant by "external"? External to what? NIG has insisted that water leaking into a leaseholder's flat from the flat above is "Accidental damage". There appears to be only one reference to escaping water in the NIG contract. It is number 3 in the Buildings section. It says: "Water escaping from washing machines, dishwashers, fixed water or fixed heating systems"

What is the position if the washing machine in the flat above leaks and damages the wall and ceiling and electrics of the leaseholder's flat below? Is this "Accidental damage"?

I note your comments are in relation to the current contract and not the proposed tender exercise. External relates to the exterior of the building, for example the external walls and drainpipes. You have referenced two separate entities, 'accident damage' and 'escape of water'. If the washing machine in the flat above leaks and damages the wall and ceiling and electrics of the leaseholder's flat below, this would be classed as 'escape of water'. 'NIG has insisted that water leaking into a leaseholder's flat from the flat above is "Accidental damage"'. That is incorrect and would be classed as escape of water not accidental damage

Letting or subletting by leaseholder. There are a number of risks from which NIG exclude liability if the leaseholder lets or sub-lets their property. The reason given for these is that tenants or subtenants of the leaseholder are less likely to take good care of the property. If that is the case why are there exclusions in the following cases: Buildings Section item 11, Accidental Damage. NIG has told leaseholders that a leak into the flat from either the roof or the flat above is "Accidental damage" and that there is no protection if the property is let or sublet. If the justification for not insuring some risk where the leaseholder has let or sublet is as indicated above, then how can this exclusion be justified? It is just an excuse to avoid insuring a risk which should be insured against under our leases. If you disagree, please explain why. Another item where the risk is not covered when there is a letting or subletting is item 12 in the Buildings section. This relates to damage to drains, cables, pipes and underground tanks and includes these things when they are not part of the property. What is the justification for this exclusion which the occupant of the property can have no influence over? The Council has said that it would not be reasonable to pay an increased premium to support those who chose not to live in the property. Our leases permit us to let or sublet. If there is any increase in the risk of damage to a property as a result of a letting or subletting, then an exclusion is understandable. But in the above cases this is not the case. What will the Council do to ensure that leaseholders who let or sublet are not discriminated in the way that they currently are under the NIG contract?

In addition to your note 'tenants or subtenants of the leaseholder are less likely to take good care of the property', the reporting of damage can be delayed as tenants or subtenants wait until the situation gets worst whereas an owner in situ would repair and report immediately.



Lambeth will request if and at what cost, additional premiums can be provided to insure sublet properties. The response to this request will be made available at the second stage of consultation.

I would advise, in the tender process for the current contract due to expire on the 31 March 2023, a similar request was made by Lambeth to all bidders. In response to this, all bidders declined to provide this additional cover. Similarly, during the current contract, insurers have not provided cover for landlords as this is a leasehold occupied policy and it was never the intention when awarding the contract that it would cover landlords.

Another item where the risk is not covered when there is a letting or subletting is item 12 in the buildings section. This relates to damage to drains, cables, pipes and underground tanks and includes these things when they are not part of the property. What is the justification for this exclusion which the occupant of the property can have no influence over?

Item 12 refers to accidental damage to drains, pipes, cables, and underground tanks which a leaseholder has a legal responsibility, therefore it may not apply and if it did it would not be excluded if the property was sublet the only exclusion is related to damage caused by or from movement, settlement, or shrinkage of any part of the buildings or the land belonging to the buildings. Sublet is not an exclusion for this item.

I am aware that a very substantial value of claims arises from water ingress. Please explain why this is. And please provide a breakdown of claims for water damage, showing the following categories:

- a. *Ingress from flat above*
- b. *Ingress from flat above arising from something the occupant above has done or not done*
- c. *Ingress arising from a defect which is the responsibility of the Council to remedy (e.g., from a hole in the roof or a leaking pipe installed by the Council)*
- d. *Ingress coming from flats occupied by Council tenants*
- e. *Ingress coming from flats occupied by leaseholders*
- f. *Ingress arising from building works carried out by either the Council or a contractor of the Council.*

What is the council doing to try to minimise this sort of damage? If the Council is doing nothing, why is it doing nothing?

Water ingress claims are usually due to the condition of the roof/flat roof, drainpipes and balcony issues as well living lifestyle conditions resulting in poor ventilation causing condensation. We do not differentiate claims by your description there are over 2,500 descriptions used by insurers. An overall description is used by the peril that caused the damage. The table below uses perils as a description of the cause for the last 5 years.

Peril Description	Count of Peril	Sum of Paid	Sum of Outstanding Reserve	Sum of Total Cost
Accidental Damage	616	585,061.49	253,811.00	838,872.49
Escape of Water	1875	5,373,887.08	1,130,924.00	6,504,811.08
Fire/Lightning	24	236,757.80	155,963.00	392,720.80
Flood	3	12,208.72	-	12,208.72
Impact	7	952.25	-	952.25
Malicious Persons	19	5,937.15	4,651.00	10,588.15
PL Third Party Injury	1	28,563.00	-	28,563.00
Property Owners Liability	3	-	-	-
Storm	38	80,397.16	24,134.00	104,531.16
Subsidence	32	66,627.07	153,030.00	219,657.07
Theft	54	56,925.46	6,894.00	63,819.46
Trace & Access	56	154,949.27	500.00	155,449.27
Grand Total	2728	6,602,266.45	1,729,907.00	8,332,173.45

- a. We do not differentiate claims by your description please see table above.



- b. We do not differentiate claims by your description please see table above.
- c. We do not differentiate claims by your description please see table above.
- d. We do not differentiate claims by your description please see table above.
- e. We do not differentiate claims by your description please see table above.
- f. Below is a table related to the description 'contractor damage'.

Peril	Count of Peril	Sum of Paid	Sum of Outstanding	Sum of Total Cost
Accidental Damage	9	1,820.00	-	1,820.00
Escape of Water	3	2,683.00	5,800.00	8,483.00
Grand Total	12	4,503.00	5,800.00	10,303.00

The council in the last 10 years established the Lambeth Housing Standard investing more than £490million into the buildings and estates managed by Lambeth. In addition to this, there is our new in-house team called Community Works to make repairs to communal spaces on our estates. The idea of starting an in-house DLO communal repairs team came from a report by residents who formed a Task and Finish group. They made 21 recommendations for the council to improve the way communal repairs are reported, recorded, done, and inspected after completion. More information on this new team can be found here: <https://beta.lambeth.gov.uk/housing/housing-repairs/community-works-lambeths-new-directly-employed-communal-repairs-team>.

I am aware that the NIG policy excludes damage caused by workmen carrying out repairs and maintenance. If damage is caused by workmen in this way leaseholders have been told that they only have a claim if the Council has been negligent and in such a case, they should claim under the Council's Public Liability policy. This cannot be right. If there is negligence by the Council the Council should compensate the leaseholder. And if the Council has a Public Liability Policy it is then for the Council to claim under that policy. A leaseholder has no right to claim under the Council's public liability policy. If you disagree with me, please explain why.

Contractors have their own liability insurance policy in place to cover any damage/injury caused due to their works. If the council has been negligent a claim would need to be made and it will be necessary for you to prove in civil law that the council has been negligent and/or breached its statutory duty. If a leaseholder or a member of the public requests compensation a claim must be made through the council's public liability insurance policy or parties can seek legal advice. More information can be found at <https://beta.lambeth.gov.uk/about-council/contact-us/make-liability-claim-against-council>

Please explain how the Council is able to have due regard to observations by leaseholders under section 20 consultations whether at the notice of intention stage or at the notice of proposal stage. I ask this because the procurement route chosen by the Council of using the London Insurance Consortium appears to prevent the Council from having any influence over the insurance that is offered, with the result that anomalous provisions such as those identified above cannot be prevented. This being the case, how can the Council comply with its obligations to consult and to have due regard to observations by leaseholders under the section 20 consultation requirements?

The phrasing 'due regard' is written within the 2003 No. 1987 LANDLORD AND TENANT, ENGLAND, The Service Charges (Consultation Requirements) (England) Regulations 2003.

Observations that given due regard are those that are read and responded to fully and when and where possible these are acted upon. For example, because of this request by you and a number of other residents, Lambeth's insurance dept will be asking the consortium to ask all bidders to quote on the insured risk of accidental damage to include sublet properties. In addition, the insurance dept will ask if it is possible for there to be two sets of premium costs, one that would suit resident landlords and the other that would suit in situ residents. It will ultimately be up to the bidders if they want to take on this risk. This also has to be weighed against the cost we would ask leaseholders to pay.



The Consortium will undertake a tendering exercise for all member councils in accordance with the Public Procurement Regulations with the winning bids for this tender being assessed on an individual borough basis. Being part of the London Insurance Consortium is a benefit to leaseholders due to economies of scale as insurers provide better rates. Lambeth does have influence regarding the contract nevertheless it is an insurance policy which has standard cover and policy conditions within them, we can negotiate in areas however we cannot rewrite policies.

Please confirm whether the Council, London Insurance Consortium or any other organisation or individual will receive any commission, fee or similar in relation to the proposed insurance contract procurement.

The tender is being overseen by insurance brokers who will receive an insurer services brokage fee of 3.5% of the premium which is cost neutral to Lambeth (a price for a service that is equal to the cost of production). This covers the cost of work the broker does for the insurers including:

- Client identification
- Due diligence
- Marketing
- Risk information gathering/analysis
- Premium collection
- Credit control

The brokerage fee is paid by the insurance company direct to the broker. The quotation price would be the same to us as the insurers pay for this under terms of their agreement. The insurer services brokage admin fee (as explained above) would apply if Lambeth were to undertake this procurement alone outside of the Insurance London Consortium. The fee charge is standard practice and is an agreement between insurers and brokers. Aon the brokers do not pay any commissions to ILC members for any policies placed by Aon.

The letter states that current contract for Building Insurance will expire on the 31st March 2023 and the Council is proposing to enter into a new contract from the 01 April 2023. It is surprising that no engagement or communication had taken place with us the residence of Lambeth Council, for whom this contract is being arranged. It says that Lambeth Council will facilitate to procure and manage this contract on behalf of its residence. I had already identified in my several previous communications with the Homeownership team and with the Insurance Department team at the Lambeth Council, on how the shortcomings of previous procurement done which resulted in very poor value for all residence of Lambeth Council. The existing Insurance contract had clearly some significant gaps which did not provide adequate protections and safeguards to residence of Lambeth Council. Can you please send me a copy of lessons learnt report on previous contracts and a copy of the Scope documents (schedule of specifications) that are sent as part of the tender documents so that I can determine if my previous concerns have been taken into account. If not, why have they not been considered.

The letter you received dated the 1 August 2022 is in itself communication to you about the need for a new contract. At this current time, no procurement or tendering has taken place until we have engaged with leaseholders via the Section 20 consultation. The consultation letter sent to you is about the proposed contract and any comments you wish you make. I am not able to advise you on your previous communications with Homeownership Services or the Insurance Team but can suggest if you do have further on-going queries to raises them via this form: <https://beta.lambeth.gov.uk/form/leaseholdinsurance-enquiry-form>.

There are no lessons learnt report available, nor am I able to send you a schedule of specifications as insurance policies are not tendered on this basis. This consultation is an opportunity for you to raise with the S20 Team observations on the proposed contract and what you would hope to see from the contract.

