

By: John Simmonds - Cabinet Member for Finance
Lynda McMullan- Director of Finance

To: Governance & Audit Committee

Subject: Report on Insurance Activity

Classification: Unrestricted

Summary This report provides an overview of insurance activity over the past twelve months.

FOR INFORMATION

Introduction

1. This report provides members with an understanding of the Council's insurance programme, claims and performance against agreed indicators over the past twelve months.

Funding position

2. Where possible the Council ensures financial risk associated with operational or commercial activities and schools is transferred, protected and paid for through a combination of self insurance and a variety of policies arranged through external insurers.
3. Expenditure on insurance is managed through the Kent Insurance Fund. The Fund meets the annual cost of insurance (premiums, claims payments and administrative costs) and maintains reserves for outstanding claims known about and future liabilities that have not yet been incurred or reported to KCC.
4. The Fund is financed by contributions from corporate funding, commercial activity centres, schools and investment income. For reasons previously explained to the Committee, the Fund has been operating in a deficit position for some time. The action plan developed in 2009/10 is now starting to correct this position. It is hoped that the Fund will be fully funded by 2011/12.
5. A snapshot of the Fund as at June 2010 is provided below.

Expenditure		Income	
Premiums paid to insurers	3,045,000	<i>Opening balance</i>	13,208,542
Adjusting fees	194,040	Contributions received from schools, Commercial Services etc	5,258,000
<i>Claims paid 10/11</i>	5,910,000	Corporate funding (directorates)	3,479,000
<i>Reserve for known claims</i>	12,672,182	<i>Recoveries from third parties</i>	780,000
Reserve for claims incurred but not reported	500,000	<i>Investment income</i>	50,000
Section costs	650,000	<i>Other</i>	10,000
<i>Misc</i>	26,750		
Total	22,997,972	Total	22,785,542

6. Although the Fund still appears in deficit by £212k this is an improvement upon the deficit position reported last year of £342k.

Insurance Section

7. The insurance programme and claims are managed through a central insurance section based in CED Finance. As well as managing all aspects of insurance for KCC the section continues to provide insurance services to Kent & Medway Fire Authority and Thanet District Council as part of shared service arrangements.
8. In April 2010 KCC entered into a two year agreement to provide insurance services to Reigate and Banstead Borough Council. Since April the Insurance Team has already generated approximately £20k worth of premium savings for the borough council.
9. Heath Lambert was appointed in September 2007 on a three year contract to provide insurance broking services to the Council. This arrangement has worked well and has been extended for a further period of one year.

Changes to Insurance Arrangements

Voluntary Aided Schools

10. Since the Council does not own the buildings used by Voluntary Aided schools it has not historically insured the property risk. In theory the risk was being covered by a combination of central government funding and Diocesan Boards. In recent years the element to be paid by central government has fallen to LEAs to be funded from non committed capital budget. The result has been that LEAs have been exposed to fund losses even where there is no non committed capital budget available.
11. To address this situation the insurance market has now made a facility available whereby LEAs can insure the property risk in full. To provide increased financial control the Council now insures the property risk for Church of England and Catholic Voluntary Aided schools 100% and 90% respectively. In the case of Catholic Voluntary Aided schools the diocesan board insures the remaining 10%.

Academy Schools

12. Schools becoming academies with effect from September 2010 will no longer be insured by KCC. Although this may reduce the risk profile of the Kent Insurance Fund it will reduce income. At present KCC is not offering to insure Academy schools as it is not yet clear whether this is legally permissible.

Claims Experience

13. Whilst the section sets its own processing standards it also incorporates external standards where appropriate. For example, when dealing with liability claims processing standards set within the Ministry of Justice Civil Procedure Rules are applied. At a basic level Civil Procedure Rules require all new claims involving a personal injury to be acknowledged within 21 days from receipt and then a decision on liability to be communicated to a claimant at the end of 111 days unless an extension to time has specifically been sought. The target level of performance has been achieved.

Performance indicator	Target	Performance
Acknowledgement of injury claims within 21 days of receipt	95%	100%
Communication of decision on liability within 111 days	95%	95% (Personal injury claims only)

14. Activity within each of the four main policies is summarised below.

Public Liability – third party claims

15. Claims can result from any activity undertaken by KCC. They can range from damage to a tyre going down a pothole through to death / major personal injury or financial loss. The majority of claims received relate to incidents on footways and carriageways. This is a typical profile for a county council with highway responsibilities.
16. The number of claims made by third parties (public, visitors, pupils etc) continues to rise:

Year	No of claims	Paid	Rejected	Decision awaited
2006/07	1770	529	1228	13
2007/08	1757	540	1188	29
2008/09	2288	630	1581	104
2009/10	3704	351	1882	1471
Totals	9519	2023	5879	1617
		£3,226,408		Estimated value of open claims £6,407,315

17. From December 2009 onwards the total number of claims received has exceeded all expectations and is entirely due to highway claims. The rapid and unexpected deterioration of the highway network since December has been well documented. The problem continued into Spring and as of July Kent Highway Services had repaired in excess of an estimated 100,000 potholes which have generated over 3250 claims. For the Insurance Team alone this equates to approximately two years worth of claims being received in a period of seven months. This has put an enormous strain upon both Kent Highway Services and the Insurance Team who have to process claims. This volume of work has overwhelmed resources and created serious delays in advising claimants of the decision taken in relation to their claims. As a consequence of the volume of work the claims process is being reviewed and streamlined to improve efficiency.
18. Anyone can make a claim against KCC where they believe they have suffered and injury or damage to their property. The Council can only be held liable where it has been negligent or in breach of its statutory duty and this is often not understood by claimants. As a result, the Council is able to reject a large number of claims. A target of settling no more than 25% of claims has been set to reflect the fact that the Council should be complying with its statutory duties and not operate negligently.

Performance indicator	Target	Performance
Settlement rate for Public Liability claims over past 3 years.	Under 25%	30%

19. During 2009/10 a total of £2.4m was paid out in compensation (damages + legal costs) for Public Liability claims. This sum includes claims that occurred in 2009/10 as well as many previous years. The amount paid out during any one year provides the best assessment of the true annual cost of Public Liability type claims made against KCC.
20. The potential value of rejected claims is not available. However it is considered that this easily exceeds the amount paid out.

21. It is inevitable that some claims will be litigated and progress to trial either because the claimant refuses to accept rejection of their claim or we have been unable to agree quantum. KCC generally only takes cases to trial where the chances of success are assessed as good. Taking cases to trial can however increase uncertainty as the final decision is left to the Courts.

New Performance indicator	Target	Performance
Number of public liability cases won at trial 2009/10	65%+	tbc

22. For Public Liability the following points are of interest:

From 2005 – 2009

- For all Public Liability claims KCC received 5.7 claims per 1000 population compared to the CIPFA benchmarking average of 4.9
- For highway claims KCC received 2.5 claims per 1000 population compared to the CIPFA benchmarking average of 2.4

Employers Liability – claims made by employees

23. The number of claims made by employees continues to remain stable.

Year	No of claims	Paid	Rejected	Decision awaited
2007/08	44	19	18	7
2008/09	39	12	23	4
2009/10	24	9	9	6
Totals	107	40	50	17
		£1,086,547		£145,150

24. Activity in this area is considered to be proportionately in line with other authorities

Performance indicator	Target	Performance
Settlement rate for Employer's Liability claims over past 3 years	below 50%	44%

Property

25. Due to the size and nature of the property portfolio there will always be a high level of claims.

Year	No of claims	Value of paid claims £	Estimated value of open claims £
2007/08	929	2,082,678	31,353
2008/09	693	861,282	201,277
2009/10	568	1,143,276	1,051,681
Totals	2,190	4,087,236	1,284,311

26. The breadth of cover within property policies varies greatly amongst authorities making it extremely difficult to benchmark KCC's experience. Benchmarking does indicate that the number of claims from KCC insured schools caused by fire, whether accidental or arson, is in line with the average.

Motor

27. At present KCC operates a large commercial motor fleet of 1000 vehicles. The number of claims has remained relatively stable within the main fleet:

Year	No of claims	Paid – own damage & third parties £	Estimated value of outstanding claims £
2007/08	417	354,176	2,926
2008/09	366	413,536	59,670
2009/10	332	287,341	87,496
Totals	1,115	1,055,053	150,092

28. CIPFA benchmarking indicates that KCC has a frequency of 0.4 claims per vehicle on its main fleet compared with the average of 0.44

Conclusion

29. The report highlights that the Risk Management and Insurance team of the Council have, except in one instance, met performance targets despite an increasing workload in relation to public liability claims. Claims in all other areas have also continued to reduce in number, a positive reflection of risk management across the Council.
30. Overall Members can take assurance that the insurance team is proving an effective service for the Council.

Recommendation

31. Members are asked to note this report

Darryl Mattingly
Corporate Risk & Insurance Manager
Ext 4632
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