

By: Cabinet Member for Finance
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To: Governance and Audit Committee 23 July 2014

Subject: **KCC INSURANCE OVERVIEW**

Classification: Unrestricted

Summary: This paper provides a summary of insurance activity between April 2013 to March 2014 and points of interest.

FOR ASSURANCE

INTRODUCTION

1. The Council's insurance programme is extensive and designed to provide increased financial control of the risks flowing from the diverse nature of activities undertaken to meet statutory duties, support general business functions as well as income generating operations.
2. This report provides a review of activity within the programme and points of interest up to March 2014.

INSURANCE PROGRAMME

3. The insurance programme, which covers all directorate operations and schools, is made up of a number of policies. The total cost of all policies for 2013 was £3.237m and for 2014 is £3.342m inclusive of 6% Insurance Premium Tax. The main policies purchased are Employers Liability, Public Liability, Property and Motor which together make up approximately 84% of the annual expenditure on premiums.
4. The bulk of the programme continues to be insured with Zurich Municipal Insurance. In 2009 the Council entered into a five year contract with the insurer. A subsequent two year extension up to December 2015 was agreed in 2013.
5. Due to the increasing cost of claims insurers are going through a period of reassessing the reserves held to meet current and future claims made against their Public and Employers Liability policies. As a result insurers are correcting premiums to ensure that sufficient funds are set aside and profit ratios maintained. In recent months many councils have seen their long term agreements broken as insurers impose significant premium rate increases. Aware of the way the market was moving KCC secured early terms from Zurich Municipal to extend its insurance programme for a further two years up to December 2015. As a result the premium for

the Public and Employers Liability policies were only increased by 8% for 2014 and the insurer has agreed to apply this same level of increase for the 2015 insurance year provided the claims experience remains within tolerable limits. It should however be noted that the Council's current claims experience has unfortunately deteriorated in recent months due to the notification of a number of high value losses. This experience tends to support what insurers are generally reporting is happening across their liability policies.

6. The cost of individual premiums is controlled by self-insuring the first part of every claim. The self-insured or excess levels are typically between £50k and £250k per event dependent upon the policy under which a claim is recorded. These excess levels are relatively low for a large local authority and are kept under review. Triangulations completed by the Council's insurance broker prior to the agreement of the two year extension with Zurich Municipal confirmed that these excess levels provided the most efficient financial model in terms of premium verses self-insurance. Due to higher premiums being sought by insurers it may be necessary to significantly increase the current excess levels to control premium rate rises when the contract is retendered.
7. Premium and excess payments are met through the corporate Kent Insurance Fund to which all directorates and LEA schools contribute in accordance with their risk profile and claims experience. As at March 2014 the Fund was estimated to be in deficit with a balance of -£1,098,928.
8. The balance of the Fund can fluctuate from year to year due to the unpredictable rate at which claims can be received and their estimated reserved value. As at the end of the 2012/13 financial year the Fund was in credit by £1.5m. However, due to the deteriorating claims experience over the 2013/14 financial year the Fund had switched to a deficit position by March 2014.
9. The Fund is supported by the Insurance Reserve. As at March 2014 this was £5,624,025 in credit. The Reserve exists to meet future unexpected insurance costs such as those relating to former insurers (Municipal Mutual Insurance and Independent Insurance) which ceased trading in the 1990s.

INSURANCE CLAIMS

10. Below is a summary of activity relating to the four main insurance policies during 2013/14.

Employers Liability

11. In the 2013/14 financial year 27 new claims were received. Whilst the majority of accidents occurred during 2011-13 three 'older' claims due to

alleged exposure to asbestos dating back to 1959, 1977 and 1984 were also received. Decisions on liability have been made in respect of 24 of these new claims with 59% having been rejected which exceeds predicted levels. The estimated cost of those claims where liability has been conceded is only £67k and the reserve for the new claims that have yet to be decided is £160k.

12. The overall outstanding balance on all Employers Liability claims that are still open across all years is reserved at £2m.
13. The causes of the claims received are shown below:

| Cause of injury | Claims |
|--------------------------------------|---------------|
| Slip/trip/fall | 9 |
| Faulty equipment / fault on premises | 5 |
| Manual Handling | 4 |
| Asbestos | 3 |
| Other | 6 |

14. The Enterprise & Regulatory Reform Act 2013 was enacted last October. This Act is intended to provide those employers who take their health and safety responsibilities seriously with greater protection against claims for compensation. It is too soon to provide any confirmed view of the impact this Act has had upon the number of claims that might be received however it is expected that it will deter some claimant legal firms from pursuing claims where negligence cannot be easily proven.

Public Liability

15. During the 2013/14 financial year a total of 3407 claims were received of which 54% were reported during the last quarter of the period. This increase is attributed to a spike in pothole related claims due to the prolonged period of wet weather.
16. Of the 3407 claims received 3251 were highway related of which 2471 were due to potholes. Liability has been decided in respect of 76% of these claims of which 87% have been rejected.
17. Generally, the vast majority of claims fall between the value range of £1 - £25k however a number of what are known as 'large loss' claims are also made against the Council which have values in excess of £50k. Since January 2013 27 such claims have been received which have a collective reserved value of £9m of which £1.3m has been set against the Kent Insurance Fund and £7.7m has been reserved for by the Council's insurer.

The alleged causes of the six highest value claims are:

- Flood water on carriageway caused motorist to lose control of vehicle

- Pedestrian fell when railing gave way
 - Trip on defective footway
 - Cyclist struck debris in carriageway
 - Pedestrian tripped on kerb
 - Private tree fell on vehicle on the carriageway
18. The overall outstanding balance on all Public Liability claims that are still open across all years is reserved at £15m against the Kent Insurance Fund and £11m by insurers. It should be noted that these will not be the final outturn figures as reserves include claims that will eventually be rejected.

Property

19. During the 2013/14 financial year 363 claims were made against the property policy with a total reserved cost of £1.04m which 95 related to the recent severe winter storms. The estimated cost of the storm damage alone is thought to be as much as £400k with all claims being met from the Kent Insurance Fund.
20. During this period there have only been two large losses both of which occurred at school sites. The largest loss resulted from a fire at a school with an estimated reinstatement value of £220k and the other resulted from storm damage with an estimated reinstatement value of £140k.
21. The number of incidents due to the theft of lead and copper has reduced from 88 in 2011/12 to 30 in 2013/14. This reduction is attributed to a tightening up on the ability to sell on stolen metal for cash payments.

Motor

22. During 2013/14 the Council operated 3 motor fleets; commercial, leased cars and bus fleet. As at April 2013 1581 vehicles were insured by under KCC's motor policy. As at April 2014 this figure had reduced to 1019 vehicles. This reduction is due to the termination of the bus fleet in October 2013, transfer of vehicle operated by Kent Commercial Services Ltd to its own insurance policy and continued reduction in the number of lease cars following closure of the scheme in 2010/11.
23. With regard to the lease car scheme it is anticipated that all leased cars will be off cover by the end of the 2014/15 financial year. The scheme has always been self-financing with contributions from staff into the Lease Car Fund meeting the cost of insurance premiums and claims. As the number of vehicles reduces so will the amount paid into the Fund and there is a risk that a poor claims experience over the next 10 months could result in a shortfall between the value of the Fund and its liabilities.
24. The bus fleet has always been a heavy risk in insurance terms due to the number of injuries that might be sustained in a single incident. In October 2013 this fleet ceased to exist. The cost of insurance premiums

and claims was always met from the fund managed by the former Commercial Services Ltd. The fund is now managed by Commercial Services Kent/Trading and, whilst there are still a number of claims to be concluded, it is their view that there are sufficient funds to meet all outstanding liabilities.

DESK TOPPING

25. In the Autumn of 2012 the Insurance section assumed a greater role in the collection and analysis of highways data to assess claims thereby releasing resources within the Highways Division. Essentially this meant that claims officers were tasked with interrogating the Highways database and using the information to assess liability. This was referred to as “desk topping” and has proven to be very successful resulting in claims being dealt with much quicker and a better service provided to claimants.
26. The increased volume of claims being received following the recent wet winter has placed considerable pressure upon the desk topping system. Although there is currently a backlog in the assessment of claims this system still remains more efficient than that which it replaced. It is hoped that this backlog will be brought back to within reasonable levels during July

MUNICIPAL MUTUAL UNSURANCE

24. As previously reported the Municipal Mutual Insurance Company ceased writing business in 1992 and ever since has been operating in run-off. A solvent run-off has not been possible and as a result what is known as the ‘Scheme of Arrangement’ has been triggered which involves clawing back of monies from past members of the mutual to meet the outstanding future costs of claims. In January the Council received a Levy Notice for just under £600k. Whilst this has been paid it is the view of KCC’s insurance broker that further demands may follow, possibly up to a total value of £1.6m, in the medium to long term.
25. This situation is not unique to KCC. Municipal Mutual Insurance insured the majority of local councils up to 1992 and all have received demands for payment relative to the value of claims settled by the insurer on their behalf.

CHANGES TO THE PROCESSING TIMES AND COST OF CLAIMS

26. The implementation of the Jackson Reforms and Ministry of Justice claims portal in the summer of 2013 provided opportunities for KCC to make savings on third party legal costs for claims up to £25k. To achieve these savings it would be necessary to deliver decisions on

liability within 30 – 40 days of receipt of a claim. The Insurance section has achieved the new processing times on all claims.

27. It is too soon to comment upon the level of savings that have been achieved however it is hoped to be able to provide a view in the 2015 annual report. .

FRAUD

28. Low level fraud or exaggerated claims are aspects that we remain alert to. Where claims are to be settled details are carefully checked to ensure that payments are only made where justified. This is done both in house and through insurers.
29. Fraud within motor claims has attracted considerable media attention through 'crash for cash' cases. This criminal activity is now spreading into liability type claims and is likely to increase as it becomes more organised and targeted. KCC is working with external fraud teams who are experienced in dealing with criminal gangs to investigate fraud where it is suspected.

FOI REQUESTS

30. FOI requests are increasing. A total of 24 requests were made in 2012 and 42 in 2013. This increase is largely attributed to the number of claimants making requests to identify further information about the claims and maintenance history for their accident locations.

RECOMMENDATION

31. Members are asked to note this report for assurance.

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