

By: Cabinet Member for Finance  
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To: Governance and Audit Committee – 2 October 2015

Subject: **KCC INSURANCE OVERVIEW**

Classification: Unrestricted

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Summary: This paper provides a summary of insurance activity since April 2014 and other points of interest.

## **FOR ASSURANCE**

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### **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 its activities undertaken to meet statutory duties, support general business functions as well as income generating operations.
2. This report provides a review of activity since April 2014 and other points of interest.

### **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 2015 was £3.27m. The main policies purchased are Employers Liability, Public Liability, Property and Motor which together make up 84% of the annual expenditure on external insurance premiums.
4. When the last insurance report was submitted to the Committee in July 2014 there were no indications from the main insurer, Zurich Municipal, that they would alter the financial structure of the programme above the 8% increase in the casualty covers (Public Liability, Employers Liability etc.) that had previously been agreed for the 2015 insurance year. However, shortly after submission of this report the insurer advised that the excess would be increased from £50k per event to £100k for the casualty covers and also raised what is known as the Aggregate Stop from £4.5m to £7.8m. This revision of terms was due to the receipt over the previous year of an increased number of high value losses. This further revision to premium terms is expected to result in the Council having to meet and estimated £400k in additional excess payments over the life of the casualty covers based on current claim patterns. The impact of the increase in the Aggregate Stop is difficult to gauge and even if it did cause the Council to incur additional expenditure this would

not be felt for many years to come due to the time it would take to accumulate sufficient expenditure to breach the 'Stop' limit.

### **TENDER EXERCISE**

5. All contracts under the current corporate insurance programme, which commenced in January 2009, expire on 31 December 2015. Since they are not capable of being extended any further it has been necessary to commence a tender exercise and invite bids from the insurance market to compile a new programme. A tender exercise is currently underway and bids have been received from interested insurers which are now being analysed. The tender exercise has been jointly managed by KCC Procurement / Insurance and the appointed insurance broker Arthur J Gallagher.
6. The insurance market is hardening. Due to the Council's poor claims experience a substantial increase in premiums should be expected.
7. A report was submitted to the Policy and Resources Cabinet Committee on 10 September which obtained the necessary approval for John Simmonds, Deputy Leader and Cabinet Member for Finance and Procurement, to take a decision on the award of contracts during November 2015. Once a decision has been taken contracts will be awarded shortly afterwards so that policies are in place ready to start from 01 January 2016.

### **FUNDING OF INSURANCE PREMIUMS AND CLAIMS**

8. Premiums and excess payments are met through the corporately managed Kent Insurance Fund to which all directorates and LEA schools contribute in accordance with their risk profile and claims experience. As at March 2015 the KIF had a fully funded committed balance of £16.47m to meet the adjusted values for outstanding liabilities.
9. The KIF is supported by the Insurance Reserve. As at March 2015 this stood at £8.43m and is held to protect the Council against future unexpected insurance costs that might arise such as those associated with the unexpected increase in the cost or volume of claims particularly where previous insurers have ceased trading.

### **INSURANCE CLAIMS**

10. Below is a summary of activity relating to the four main insurance policies during 2014/15.

## Employers Liability

11. The number of claims being received appears to be dropping. In previous years we could have expected to receive in the region of 40 claims per annum however, this figure appears to be reducing to less than 30. This decrease is thought to be due to the number of schools that have converted to academy status, the departure of Commercial Services and the enactment of the Enterprise & Regulatory Reform Act 2013. This Act is intended to provide greater protection for those employers who take their health and safety responsibilities seriously by tightening up on the legal threshold that has to be met in order to bring a claim.
12. No new claims of significant value have been received since April 2014. The highest value claim received is currently valued at only £35,000 which is inclusive of legal costs. The main causes of claims being received remains as slips/trips/falls and assault.
13. The overall outstanding balance on all Employers Liability claims that are still open across all years has reduced to a reserve of £1.22m (£763k KCC / £460k ZM) which reflects a reduction in the number of claims being made.

## Public Liability

14. A total of 1892 claims have been recorded against the 2014/15 financial year. Of these, 90% were highway related.
15. Pothole claims accounted for almost 90% of all highway related claims in this particular financial year. Liability has been decided in respect of 99% of these claims with 90% having been rejected. To date £14,843 has been paid out for vehicle damage claims due to potholes. Unfortunately, two high value pothole related injury claims have been received which have a combined reserved value in excess of £3 million.
16. The majority of all claims received are less than £10k in value however, a number of what are known as 'large loss' claims' with a value of £50k+ can also be expected. There are currently 91 £50k+ open claims which have a total reserved value of £16.7m on top of the £7m already paid out.
17. Since April 2014 21 such claims have been received of which 14 are highway related. These claims alone have a collective reserved value of £6.7m of which £1m has been set against the Kent Insurance Fund and £5.7m has been reserved for by the Council's insurer.

The five highest value claims received result from:

- Motorcyclist losing control due to alleged carriageway defect
- Pedestrian tripping on alleged protruding water meter

- Alleged failure to effect repairs to a superannuation property
  - Alleged failures in process by a social worker
  - Alleged damage to utility apparatus following the collapse of a highway
18. There are in excess of 1100 claims currently being processed with an overall reserved value of £26.4m. Of this figure, £12.1m is reserved against the Kent Insurance Fund and £14.3m by insurers. Whilst most claims relate to events that occurred in the past five years there is a small number that could be described as historic. It should be noted that these figures should reduce as reserves include claims that will eventually be rejected.
19. As a result of the number of high value highway related claims Zurich Municipal Insurance has recently carried out an audit of the Council's management of this area of activity. Whilst their final report has still to be received it is understood that the insurer felt that the Council had developed and was working to good systems of practice and had simply been unlucky.

#### Property

20. During the 2014/15 financial year 200 claims were made against the property policy with an estimated cost of £487k. This represents a reduction of just under 50% in the number of claims being received and just over 50% in value when compared with the 2013/14 financial year. This reduction in claims is attributable to the mild weather during the winter period.

#### Motor

21. Due to a reduction in the number of vehicles being insured the claims made against the various motor policies have reduced. During 2013/14 a total of 358 claims were recorded however only 207 claims were recorded for 2014/15. Early indications are that the number of claims received for the 2015/16 financial year will result in a further reduction of around 20%.
22. Although the staff Lease Car Scheme was wound up in 2011 the last vehicle was not returned until May 2015. Whilst there were concerns that the Lease Car Fund set up to meet the cost of accident damage for this fleet might not meet its liabilities the Fund is on track to close with a very minor loss largely due to the significant administration costs levied by Commercial Services.

#### **MUNICIPAL MUTUAL UNSURANCE**

23. As previously reported the Municipal Mutual Insurance Company ceased writing business in 1992 and has ever since 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 the clawing back of monies from past members of the mutual to meet the outstanding future costs of claims. The Council has already paid £600k following a demand by the scheme administrator and there are now warnings that a further levy might be presented within the next few years.

24. 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.

### **INDEPENDENT INSURANCE LTD**

25. The Council was insured with the above insurance company from 1992 to 1995 when it went into liquidation. Since then the Council has been paying claims that should have been met by the insurer. Details of all payments made have been lodged with the liquidators and a Scheme of Arrangement was agreed in July 2015 by PricewaterhouseCoopers with a view to reimbursing all creditors up to 15p in the pound owed. If successful, in excess of £60k might be recovered.

### **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, along with its insurers, has met with the new processing times on all claims thereby maximising available savings.
27. Since the Reforms were introduced rejection rates have been maintained. It is also interesting to note that fewer litigated claims have been received which is in part thought to be due to a change in the way in which third-party claims are now funded. This trend mirrors that reported by other county councils.

### **INSURANCE BROKER**

28. The contract with Arthur J Gallagher, which was due to end on 30 August 2015, has been extended for a final period of 22 months up to June 2017.

## **RECOMMENDATION**

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

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