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To: Governance and Audit Committee – 6 October 2016

Subject: **KCC INSURANCE OVERVIEW**

Classification: Unrestricted

Summary: This paper provides a summary of insurance activity for the 2015/16 financial year and other 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 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 for the 2015/16 financial year 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 main policies purchased are Employers Liability, Public Liability, Property and Motor which, when combined, make up 89% of the annual expenditure on external insurance premiums.
4. Following a tender of the full insurance programme effective from 1 January 2016, Zurich Municipal was awarded the contract for the majority of covers on a 5 year Long Term Agreement. As advised in the previous report in October 2015, the hardening insurance market and the Council's claims experience (particularly in relation to liability claims) resulted in a substantial increase in overall premium. The total cost of all policies for 2016 was £4.27m, representing an increase of approximately £1m on 2015. This increase was exacerbated by the rise in insurance premium tax by HMRC from 6% to 9.5% in November 2015.

FUNDING OF INSURANCE PREMIUMS AND CLAIMS

5. Premiums and excess payments are met through the corporately managed Kent Insurance Fund (KIF), to which all directorates and LEA schools contribute in accordance with their risk profile and claims experience. As at 1 April 2016 the KIF had a fully funded committed balance of £13.67m to meet the values for outstanding liabilities.
6. The KIF is supported by the Insurance Reserve. As at 1 April 2016 this stood at £10.91m and is held to protect the Council against future unexpected insurance costs. These will include those associated with the unexpected increase in the cost or volume of claims particularly where previous insurers have ceased trading or invoked a scheme of arrangement requiring contribution to the cost of claims (see sections under Municipal Mutual Insurance and Independent Insurance Ltd).

INSURANCE CLAIMS

7. Below is a summary of activity relating to the four main insurance policies during 2015/16.

Employers Liability

8. The number of claims being received remains low with currently only 25 new claims recorded in the 2015/16 financial year. The decrease is likely to be due to the number of schools continuing to convert to academy status, the departure of Commercial Services and the enactment of the Enterprise & Regulatory Reform Act 2013. This Act provides 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. Kent County Council has a strong system of measures in place and has benefitted as a result.
9. No new claims of significant value have been received since April 2015. The highest value claim received is currently valued at £30k which is inclusive of legal costs. The main causes of claims remains as slips/trips/falls but there has been an increase in alleged hearing loss due to noise exposure.
10. The overall outstanding balance on all Employers Liability claims that are still open across all years is reserved at £1.69m (£800k KCC / £890k ZM), which is a slight increase since 2014/15.

Public Liability

11. A total of 1671 claims have been recorded against the 2015/16 financial year. Of these, approximately 90% were highway related.
12. To date £35k has been paid out for highway related damage claims. Vehicle damage pothole claims accounted for almost 80% of all highway related claims in this particular financial year. Liability has now been decided for the vast majority of these claims with just over 90% having been rejected.
13. 331 personal injury claims have been recorded against the 2015/16 year to date. £87,500 has been paid out on these claims thus far, but there is a remaining reserve of £3.5m for those that remain open.
14. The majority of all PL 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 88 £50k+ open claims which have a total reserved value of £16.4m on top of the £7.5m already paid out. £2.4m of this figure is reserved against the Kent Insurance Fund and the remaining £14m with the Council's insurer.
15. Since April 2015 20 such claims have been received of which 12 are highway related. These claims have a collective reserved value of £2.65m of which £1m has been set against the Kent Insurance Fund and £1.65m 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.
 - Special needs pupil slipping over on wet floor.
 - Motorcyclist losing control due to debris from defect.
 - Alleged failures in process by social services.
 - Claimant fell off bicycle due to pothole
16. There are in excess of 1100 open claims currently being processed across all years with an overall reserved value of £24.7m. Of this figure, £10.6m is reserved against the Kent Insurance Fund and £14.1m 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.
 17. Included within this figure is a significant large loss claim that arose as result of a motorcyclist accident. This claim is reserved at £8m and a decision has recently been taken to concede liability on a 77.5% / 22.5% basis in the claimant's favour. Due to the complexities of the claimant's injury, compensation will be paid by way of 'periodic payments', which provide an amount on an annual basis (reviewed every year). The

Council's deductible for this claim is £50k so all payments above this level will be met by the insurer.

18. As a result of the number of high value highway related claims, Zurich Municipal Insurance carried out an audit of the Council's management of this area of activity in August 2015. The final report concluded that the Council has in place a comprehensive Highways Maintenance Strategy and did not identify any single area of weakness that could account for some of the more significant claims that have been received over the past 2-3 years. The outcome was essentially a finding that the Council had been unlucky and there was satisfaction that the liability claim repudiation rate sits amongst the best performing authorities in the country.

Property

19. During the 2015/16 financial year 224 claims were made against the property policy at an estimated total cost of £466k. School claims account for 60% of the claims received under this policy with the other 40% being made up from libraries, youth centres and working premises. The Council has paid £308k on claims to date, as all claims have fallen below the insurer deductible.

Motor

20. Due to a reduction in the number of vehicles being insured, the number of claims made against the motor policy continues to fall. 176 claims were recorded for the 2015/16 financial year with an estimated total cost of £220k. The Council has paid £185k on claims to date, as all claims have fallen below the insurer deductible.
21. 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 INSURANCE

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 paid £600k in 2014 following a demand by the scheme administrator.

With significant numbers of claims for mesothelioma and abuse and a recent surge in noise-induced deafness claims, the company's position has continued to deteriorate and a further amount of £380k has recently been paid. An additional levy cannot be ruled out and funds have been retained for this eventuality.

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 £40k might be recovered.

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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