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To: Governance and Audit Committee – 24 October 2018

Subject: **KCC INSURANCE OVERVIEW**

Classification: Unrestricted

Summary: This paper provides a summary of insurance activity for the 2017/18 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 the activities undertaken to meet statutory duties and support general business functions and income generating operations.
2. This report provides a review of activity for the 2017/18 financial year and other points of interest.

INSURANCE PROGRAMME

3. The insurance programme covers all directorate operations and local authority schools and is made up of several separate policies. The main four policies purchased are Employers Liability, Public Liability, Property, and Motor.
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 – expiring 31st December 2020. The hardening insurance market and the Council's claims experience (particularly in relation to liability claims) at the time resulted in a substantial increase in overall premium. These increases were exacerbated by the rise in insurance premium tax by HMRC from 6% to 9.5% in November 2015 and then to 10% in October 2016. The rate rose again to 12% on 1 June 2017.
5. £6.7m is currently reserved in respect of premiums and claims spend for the 2018 policy year. This compares to £8.2m currently reserved against 2017.

6. One of the reasons for this difference is thought to be a change to the insurance programme that has taken effect from 1 January 2018. Due to the hardening market and the potential for increased premium costs, the Council carried out an extensive review of its programme and took the decision to implement a higher excess on its Public Liability and Employer Liability policies. As of 1 January 2018, the excess on these policies has risen from £100,000 to £500,000 for each claim – thus reducing the premium spend by approximately 43%. This change also brings the Council more in-line with our neighbouring authorities – the majority of which have excess levels between £250,000 - £500,000.

This decision exposes the Council to potential additional claim spend but historical claim trends suggested that an overall saving could be achieved. Thus far indications are that this will be the case, although the 2018 policy year has not yet matured and further analysis will need to be undertaken in due course.

FUNDING OF INSURANCE PREMIUMS AND CLAIMS

7. Premiums and excess payments are met through the corporately managed Kent Insurance Fund (KIF), to which directorates and LEA schools contribute in accordance with their risk profile and claims experience. As at 31 August 2018, the KIF had a fully funded committed balance of £13.61m to meet the values for outstanding liabilities.
8. The KIF is supported by the Insurance Reserve. As at 31 August 2018 this stood at £13.45m and is held to protect the Council against future unexpected insurance costs. This includes historic claims where insurance may not be available or 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 para 23).

INSURANCE CLAIMS

9. Below is a summary of activity relating to the four main insurance policies during 2017/18.

Employers Liability

10. The number of claims being received remains low with only 18 new claims currently recorded for the 2017/18 financial year.

This continued pattern is thought to be due to the number of schools that have converted to academy status, the creation of several separately insured LATCO's 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.

11. The majority of the 18 claims received arise due to incidents that have occurred in schools. Most are low value but two carry a reserve currently greater than £50k (but less than £150k).
12. There are 69 open claims currently being processed across all years. The overall outstanding balance is reserved at £2.6m. £1m of this figure is reserved against the Kent Insurance Fund and the remaining £1.6m with the Council's insurer.

Public Liability

13. A total of 1760 claims have been recorded against the 2017/18 financial year to date. This is approximately 400 more than were recorded at the same time in 2016/17 and this increase is mainly due to the rise in vehicle damage claims, caused by the winter weather experienced in January and February. Of the number received, approximately 95% are highway related.
14. Vehicle damage claims due to potholes accounted for approximately 85% of all highway property damage claims in 2017/18. Decisions have now been provided for the majority of these claims, with liability being denied for just under 90%. To date £23k has been paid out in settlements compared to 15k in 2016/17.
15. 330 personal injury claims have been recorded against the 2017/18 year to date. £150k has been paid out on these claims thus far, but there is a reserve of £3.85m (£3.5m KCC / £350k ZM) for those that currently remain open.
16. The majority of PL claims received are less than £20k in value, however a number of what are known as 'large loss' claims with a value of £100k+ can also be expected. There are currently 37 £100k+ open claims with a total reserved value of £18.8m, in addition to the £2.5m already paid out. £2.7m of this figure is reserved against the Kent Insurance Fund and the remaining £16.1m with the Council's insurer.

17. Since 1st April 2017, 11 such claims have been received of which 8 are highway related. These claims have a collective reserved value of £2.7m, of which £1.9m has been set against the Kent Insurance Fund and £800k has been reserved by the Council's insurer.

The five highest value claims received result from:

- A vehicle losing control due to ice.
- A cyclist fallen from a bicycle due to an alleged pothole.
- A cyclist fallen from a bicycle due to an alleged pothole.
- A person under KCC care injured following a fall.
- Property damage due to flooding

18. There are 729 open claims currently being processed across all years with an overall reserved value of £26m. Of this figure, £9.6m is reserved against the Kent Insurance Fund and £16.4m by insurers. Whilst most claims relate to events that occurred in the past five years, there are a small number that could be described as historic.

19. Included within this figure is a significant large loss claim that arose as result of a motorcyclist accident. A decision was taken in May 2016 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 is likely to 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 the significant percentage will be met by the insurer.

Property

20. 184 claims were made against the property policy for 2017/18 with an estimated working reserve of £375k. 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 £295k on claims to date, with all claims having fallen below the insurer excess.

Motor

21. Due to a reduction in the number of vehicles being insured, the number of claims made against the motor policy continues to fall. 157 claims were recorded for the 2017/18 financial year, with an estimated working reserve of £316k. All claims have fallen below the insurer deductible and £235k has been paid to date. The majority of these being vehicle damage only.
22. Of these claims, 51 related to highway vehicles and 47 to school vehicles. The remainder were from Social Care, Youth, and Libraries.

MUNICIPAL MUTUAL INSURANCE

23. As previously reported the Municipal Mutual Insurance Company ceased writing business in 1992 and has been operating in run-off ever since.

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 asbestos related mesothelioma and historical abuse and a surge in noise-induced deafness claims, the company's position continued to deteriorate and a further amount of £380k was paid in April 2016. An additional levy cannot be ruled out and funds have been retained for this eventuality.

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.

INSURANCE BROKER

24. Following the decision to accept higher excess levels on the PL and EL policies, the contract with Arthur J Gallagher has been extended for a further 12 months and with an option to extend again until the end of 2020. Arthur J Gallagher assisted the Council with the review of its insurance programme in order that the decision on premium levels could be taken and the further extension has been deemed necessary to ensure that this change can be implemented smoothly. This has again been agreed on existing rates.

RECOMMENDATION

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

Lee Manser
Insurance Manager