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To: Governance and Audit Committee – 3 October 2019

Subject: **KCC INSURANCE OVERVIEW**

Classification: Unrestricted

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Summary: This paper provides a summary of insurance activity for the 2018/19 financial year 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 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 2018/19 financial year and other points of interest.

### **INSURANCE PROGRAMME**

3. The insurance programme covers all directorate operations and local authority (non-academy) 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 31<sup>st</sup> 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.

However, following the decision on 1 January 2018 to implement a higher excess on the Council's Public Liability and Employer's Liability policies, this has now been reduced. The excess on these policies has risen from 100k to £500k for each claim. This decision exposes the Council to potential additional claim spend but has reduced the premium spend by 43%. Historical claim trends suggested that an overall saving could be achieved and whilst the 2018 and 2019 policy years continue to mature, the early indications are that this will be the case.

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

5. 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 2019, the KIF had a fully funded committed balance of £14.15m to meet the values for outstanding liabilities.
6. The KIF is supported by the Insurance Reserve. As at 31 August 2019 this stood at £13.65m 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**

7. Below is a summary of activity relating to the four main insurance policies during 2018/19.

### Employers Liability

8. The number of claims remains low, with only 12 new cases currently recorded for the 2018/19 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 comprehensive policy in place and has benefitted as a result.
9. The majority of the 12 claims have arisen due to incidents that have occurred in schools. All these claims are currently reserved below £100k.
10. There are 67 open claims currently being processed across all years. The overall outstanding balance is reserved at £2.5m. £950k of this figure is reserved against the Kent Insurance Fund and the remaining £1.55m with the Council's insurer.

## Public Liability

11. A total of 1470 claims have been recorded against the 2018/19 financial year to date. This is nearly 300 less than were recorded at the same time in 2017/18 and is thought to be due to the milder winter, which saw a fall in vehicle damage claims. Of the number received, 96% are highway related.
12. Vehicle damage claims due to potholes account for 65% of all highway claims in 2018/19. Decisions have now been provided on all of these claims, with liability being denied for 90%. To date £19k has been paid out in settlements. This is a fall of 4k compared to this time last year.
13. 310 personal injury claims have been recorded against the 2018/19 year to date (a fall of 20 compared to this time last year). 95% of these are highway related. £86k has been paid out on these claims thus far, but there is a reserve of £2.4m for those that currently remain open. In light of KCC's increased excess level, this is all reserved against the insurance fund. However, this reserve is £1.4m less than the claims recorded for 2017/18 at this time last year (of which 3.5m was recorded against the fund).
14. 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 33 £100k+ open claims, against which £3.9m has been paid and a reserved value of £17.7m remains. £2.3m of this figure is reserved against the Kent Insurance Fund and the remaining £15.4m with the Council's insurer.
15. Since 1<sup>st</sup> April 2018, 8 such claims have been received of which 7 are highway related. These claims have a current reserved value of £2.2m, of which £1.3m has been set against the Kent Insurance Fund and £900k has been reserved by the Council's insurer.

Of these 8 claims, the 5 highest valued result from:

- A vehicle losing control due to ice
  - Flooding to property
  - A cyclist falling from a bicycle due to a pothole
  - A motorcyclist falling from bike due to a pothole
  - A person tripping on the footway
16. There are 621 open claims currently being processed across all years, with an overall reserved value of £25m. Of this figure, £9.4m is reserved against the Kent Insurance Fund and £15.6m 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.

17. Included within this figure is a significant large loss claim involving a motorcyclist. 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, the process of settling the claim is ongoing. Interim payments have already been made but future payments are likely to be 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 is being met by the insurer.

### Property

18. 180 claims were made against the property policy for 2018/19 with a working reserve of £865k. School claims account for 65% of the claims received under this policy, with the other 35% being made up from libraries, youth centres and working premises. The Council has paid £575k on claims to date, with the insurer paying £115k. This is a sizeable increase in comparison to last year, due to several properties suffering flood damage as a result of the heavy rain experienced on 29 May 2018 – one school in particular being heavily affected.

### Motor

19. 141 claims were recorded for the 2018/19 financial year, with an estimated working reserve of £210k. All claims have fallen below the Council's 100k excess level and £146k has been paid to date -the majority of these being vehicle damage only.
20. Of these claims, 62 related to school vehicles and 42 to highway vehicles. The remainder were from Social Care and Youth Services.

## **MUNICIPAL MUTUAL INSURANCE**

21. 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**

22. The contract with Arthur J Gallagher has been extended for a further 12 months on existing rates. A further option to extend until July 2021 has been agreed, in order to ensure continued consistency through 2020 – during which the Council will begin its insurance tender process for 2021.

### **RECOMMENDATION**

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

Lee Manser  
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