

SCHOOLS FORUM

Meeting date: 3rd July 2020

From: Julie Crellin, Director of Finance (Section 151 Officer)

MAINTAINED SCHOOLS - RISK PROTECTION ARRANGEMENT

1.0 EXECUTIVE SUMMARY

- 1.1 *Insurance services for maintained schools are currently included within the Council's insurance contract. The budget for these services are delegated on an annual basis from the DSG.*
- 1.2 *From April 2020, the Department for Education (DfE) has extended the Risk Protection Arrangement (RPA), which had previously been available to academies, to all maintained schools in England.*
- 1.3 *The Schools Forum is required to determine if schools should continue with the current arrangement of the Council arranging insurance services for schools or if this should be ceased with schools being required to arrange and manage their own insurance provision. This may either be through the RPA or through another provider within the insurance market.*

2.0 STRATEGIC PLANNING AND EQUALITY IMPLICATIONS

- 2.1 *Cumbria County Council's vision is to be "A Council that works with residents, businesses, communities and other organisations to deliver the best services possible within the available resources".*
- 2.2 *There are no equality implications arising from the recommendations to this report.*

3.0 RECOMMENDATION

- 3.1 *It is recommended that the maintained Schools Forum representatives agree that:*
 - *The budget for insurance services should continue to be delegated and that the Council continues to arrange insurance services on behalf of maintained primary schools.*

- ***The budget for insurance services should continue to be de-delegated and that the Council continues to arrange insurance services on behalf of maintained secondary schools.***
- ***The Council continues to arrange insurance services on behalf of PRUs, special and nursery schools as de-delegation does not apply to these sectors.***

4.0 BACKGROUND

- 4.1 In 2014, the DfE set up a Risk Protection Arrangement (RPA) providing academies, academy trusts and free schools as an alternative to procuring insurance services. Whilst the RPA is not an insurance provider, the services it offers do provide schools with the same protections as a standard insurance provider with the risks underwritten by the Government. These arrangements enable the RPA to be offered to schools without the application of Insurance Premium Tax.
- 4.2 On 21st January 2020, the Department for Education (DfE) announced that local authority maintained schools would be allowed to join the Risk Protection Arrangement (RPA) from 1st April 2020 onwards.
- 4.3 At the last Schools Forum meeting in March, a report was presented noting that Officers were reviewing the RPA scheme and that a further report would be presented at the next Schools Forum. A copy of the DfE's consultation response was provided within the March report.
- 4.4 During the latter part of 2019, Council Officers retendered the Council's main insurance contract on the basis of a 3 year contract with an option to extend for a further 2 years. Following a competitive tendering process, Cabinet approved the award of the contract to Zurich Municipal, on 30th January 2020. This new contract commenced from the 1st May 2020.
- 4.5 Under the terms of the new insurance contract, the Council would have contracted for a minimum period of three years (with the Council having the option to extend for a further 2 years). The Schools Forum would therefore not have had the opportunity to consider RPA until 2023 at the earliest. To give Schools Forum the ability to consider RPA, Council Officers renegotiated the duration of the insurance contract with Zurich Municipal allowing for a break after one year. Therefore, if the Schools Forum chose to end the arrangement of the Council arranging schools insurance, the Council will have the opportunity to retender its insurance contract from May 2021. If the Schools Forum do not choose to end this arrangement from 1st May 2021, the next opportunity to consider RPA or any alternative provider will be 2023 (unless the Council opts to extend the contract to 2025).
- 4.6 The DfE has not mandated that maintained schools join the RPA, instead the DfE has said that where the LA or the insurance sector provides good value, then schools can continue to use existing arrangements.

- 4.7 The RPA's membership rules detail the full range of the cover it provides. It should be noted that the DfE have issued three separate sets of rules, each applying to the different local authority maintained school types, namely:
- Voluntary controlled schools
 - Voluntary aided, foundation and foundation special schools
 - Local authority maintained community schools
- 4.8 The DfE states that "each set of rules addresses the specific requirements of each school type within the local authority maintained school sector". These rules are detailed and lengthy and are available from the DfE's website: <https://www.gov.uk/guidance/the-risk-protection-arrangement-rpa-for-schools>.
- 4.9 Although the RPA has been offered to local authority maintained schools since the 1st April 2020, the DfE is aware that existing insurance arrangements for schools will be subject to long-term agreements which should be honoured, meaning that schools would have to wait until a suitable break in any current insurance contract, before they can join the RPA. Hence, for the reason stated within paragraph 4.5, the earliest that Cumbria schools could potentially join the RPA would be with effect from 1st May 2021.
- 4.10 As part of the budget setting process, the maintained Schools Forum representatives are responsible for determining whether a budget for insurance services is de-delegated from schools budgets to the Council on an annual basis. Where the budget is de-delegated, the Council currently provides insurance services to cover schools insurable risks. Schools Forum may decide to continue to de-delegate the budget and arrange insurance on behalf of maintained schools through the Council's insurance arrangements or through the RPA. Alternatively Schools Forum could elect that each school decides for itself what it wants to do i.e. use the RPA or procure its own insurance.
- 4.11 If the maintained Schools Forum representatives were to decide to cease the current de-delegation arrangement, individual schools will not have access to the Council insurance provisions and schools would be individually liable for signing up to the RPA or arranging their own insurance provision. Schools would not have access to the professional advice and support provided by the Council's insurance team. Instead, schools would have to manage their own claims, as and when they arise.
- 4.12 Should schools wish to arrange their own insurance services, they may either, (in accordance with their own procurement rules) take the RPA offered by the DfE or may procure the insurance from the insurance market - this market is currently somewhat limited but is evolving to provide competition to the RPA.
- 4.13 The DfE proposes that School Forums can opt in all maintained primary and/or maintained secondary schools to the RPA "en-masse". Whilst such an opt in is en-masse, each school would be an individual member of the RPA and would be required to manage and administer their contract with the RPA themselves. This arrangement will also apply to any pupil referral units, special schools and nursery schools.

- 4.14 Provision has been made in the Schools and Early Years Finance Regulations 2020 to provide LA's with the power to deduct the cost of RPA from the budget shares of all such schools.
- 4.15 The DfE do permit individual schools to join the RPA, however, if the maintained Schools Forum representatives decide to retain the arrangement of the Council providing insurance services for schools, then the RPA charge will be in addition to the budget de-delegated from that school and the school would therefore effectively be paying twice for insurance services.
- 4.16 The RPA membership year runs from the 1st April to the 31st March. However schools can join mid-way through the period and a pro-rata fee would be due. Therefore if the Council's maintained schools joined the RPA on the 1st May 2021, then 11 months premium would be payable in 2020/21.
- 4.17 A school may leave the RPA at the end of a membership year by giving at least three months' notice. After a member has left the RPA, they will still be entitled to the benefits relating to the period of membership. This is important as some types of claim may be incurred at a certain point in time but are not reported until many years later (e.g. abuse claims).

4.18 RPA Cover Comparison

4.18.1 A comparison between the RPA cover and the Council's insurance is provided in Appendix 1. The main observations are:

- The covers provided by the RPA and Council's insurance are broadly the same, albeit that there will undoubtedly be subtle cover differences due to the separate wording agreements.
- Whilst the cover levels provided under the RPA are generally higher than those provided under the Council's insurance (e.g. employer and public liability insurance is covered under the Council's current contract up to £50m per claim whereas the RPA cover is unlimited) such levels of cover are much higher than expected losses schools are likely to suffer and the Council considers that the current levels of cover are sufficient.
- The excesses are generally lower on the Council's insurance policy than those offered by the RPA (where excesses are referred to as the level of "member retention"). Under the RPA, non-primary schools generally contribute more to the cost of a claim. Under the RPA, the member retention level is £250 for primary schools and £500 for non-primary schools and increases to £1,000 for damage caused by subsidence. Under the Council's insurance policy the excess are lower and, for example, under Material Damage range from £nil to £200.
- The de-delegated budget funds support provided to schools by the Council's Insurance Team. This service includes:
 - administering, managing, renewing and retendering of schools related insurance contracts

- providing schools with technical insurance advice (e.g. cover advice)
 - assisting with claim submissions to insurers and ensuring claims are handled fairly
 - maintaining school claim records
- This support from the Council's Insurance Team would no longer be available to schools if the Schools Forum were to end the arrangement of the Council providing insurance for schools.

4.19 RPA Pricing

4.19.1 The headline cost of the RPA cover is £18.00 per pupil in 2020/21. In the same period, Council Officers have estimated that the average cost of insurance for cover by the Council is £24.30 per pupil (excluding Catholic schools who arrange their own property insurance through the diocese), however the rate is affected by a range of factors including the building value, claims frequency and severity etc. This results in secondary schools and PRUs tending to pay a higher rate for insurance than primary schools and special schools.

4.19.2 Whilst the headline price indicates that RPA is cheaper than the insurance arranged by the Council, there are differences that need to be considered concerning coverage and service. The main differences are summarised in the table below.

	RPA	Council insurance
Insurance Team support	Not included	Included (see paragraph 4.18.1 for details)
Excesses / member retention levels i.e. the amount that the schools are required to contribute towards a claim.	Generally higher than the Council's insurance.	Generally lower than RPA
Cover levels i.e. the maximum sum insured for each claim	Generally higher than the Council's insurance.	Generally lower than RPA, however the level of cover is considered to be sufficient.
Engineering Inspection - Health & Safety law requires that some equipment within schools (e.g. lifts, pressure vessels, local exhaust ventilation systems) are periodically inspected by a competent person.	Not provided by the RPA - cover would need to be procured elsewhere - see paragraph 4.20.3	Included
Legal Expenses	Included	Not included - this can be obtained from the Council's legal services team through an SLA.

Artificial sports pitches	Included	Excluded - schools pay an additional premium for this cover.
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4.19.3 Church schools are only permitted to join the RPA if they have written approval from their trustees. The diocese have additional insurance in place for their schools (e.g. contingent liability for non-educational activities, and in the case of the Catholic diocese, insurance for schools building and contents). If church schools considered RPA then they would need to take this into consideration.

4.20 Other Considerations

4.20.1 As noted in paragraph 4.12, the RPA is not the only alternative option available to schools. There is an insurance market which may be able to offer stand-alone insurance cover on an individual school basis if the Council insurance no longer included schools.

4.20.2 If schools choose to subscribe to the RPA, or make separate insurance arrangements, each school would be required to manage those contracts themselves and also manage any claims made against those contracts. The procurement of insurance contracts must be undertaken in accordance with the school's respective procurement policy.

4.20.3 As noted in paragraph 4.19.2 above, the RPA cover does not provide a number of cover types that schools may require. Schools requiring these covers would still need to arrange these separately, at additional cost, either through the Council's insurance or with their own appointed insurer. These covers are summarised below:

Insurance Type	Current Cover Arrangement
Engineering Inspection	Covered by the Council's insurance
Motor	Can be provided by the Council's insurance
Third Party Liability for PTAs	Can be provided by the Council's insurance
Staff Absence	Arranged separately by schools
Occasional Business Use	Arranged separately by schools

It would be possible for the current cover arrangements for these services to continue if Schools Forum elected to end the arrangement of the Council providing school insurance.

4.20.4 If Schools Forum elect to cease the current arrangement, schools would not be able to rejoin the Council's insurance policy until the Council retendered for its insurance contract in the future. Therefore, if the Schools Forum ended the current arrangement, it would be committing schools to procure and manage their own insurance risks until at least May 2023, and potentially until May 2025.

4.20.5 If the maintained Schools Forum representatives were to move away from the Council arranging its insurance, and then subsequently, at some future point in time, chose to reverse that decision, this would not be a simple process.

For example each maintained schools would need to provide information to enable the Council's insurer to re-evaluate the school risk.

5.0 OPTIONS

- 5.1 A) The maintained Schools Forum representatives are recommended to continue to de-delegate the budget for insurance services and that the Council continues to arrange insurance services on behalf of maintained primary, secondary schools and PRUs, special schools and nursery schools.

This option is recommended due to:

- The professional support provided by the Council's Insurance Team including procurement, claims management, maintaining claims records, and technical insurance advice. If schools opted to cease the current arrangements, these services would no longer be provided creating an additional administrative burden to schools.
- Excesses under the Council's insurance policy are generally lower than those under the RPA policy.
- Officers consider that the insurance arrangements currently provided are adequate for schools and provide good value.

Alternatively:

- 5.2 B) the maintained Schools Forum representatives may elect to opt in maintained schools to the RPA en-masse from 1st May 2021. This opt-in may be by stream, (i.e. for all maintained secondary schools, for all maintained primary schools and for all PRUs, special schools and nursery schools); or
- 5.3 C) end the de-delegation arrangement and require schools to procure their own insurance services from 1st May 2021 whether this be with the RPA or any other insurance provider. If Forum elected to move away from the Council's insurance and require all schools to arrange their own insurance, the Council would communicate the minimum level of coverage required and each individual school would then be required to arrange their own insurance following their own procurement rules.
- 5.4 With either option B or C, if schools wanted to rejoin the Council insurance provision, it would not be possible to do this until the Council next retenders for its insurance services.

6.0 RESOURCE AND VALUE FOR MONEY IMPLICATIONS

- 6.1 Headline prices indicate that RPA is a cheaper option than the schools de-delegating the budget for the Council to arrange insurance services. However, a direct comparison cannot be made between the costs as there are a number of factors that should be considered:
- RPA costs exclude the advice and support provided by the Council's Insurance team including claims management

- Excesses under the RPA are generally higher than the current insurance contract procured by the Council. Therefore schools will contribute more to the cost of each claim under the RPA than under the Council's insurance.
- The RPA does not provide certain cover types (e.g. motor, engineering inspection) and schools needing these covers would still need these to have these arranged, at additional cost, either through the Council's insurance or with their own appointed insurer.
- Whilst the RPA was set up in 2014, this was originally offered only to Academies and has only been open to maintained schools since April 2020. Schools Forum may wish to continue with the Council arranging insurance services on behalf of schools and monitor the progress of the development of RPA with maintained schools. The School Forum's position could be reviewed when the Council next retenders for insurance services (scheduled for 2023 or 2025 if the Council opts to extend its contract with Zurich Municipal).

6.2 If Schools Forum do not accept the recommendation for the Council to continue to provide insurance services for all maintained schools, any school that arranges its own insurance (including through being admitted en-masse to the RPA) would be responsible for maintaining and managing their own insurance contracts / agreements and would therefore be reliant on their own staffing resources to do this.

7.0 CONCLUSION

7.1 From April 2020, the DfE has invited maintained schools to join the RPA - an arrangement previously only available to academies, academy trusts and free schools.

7.2 Insurance for maintained schools is currently funded through a de-delegated budget and is included within the Council's insurances.

7.3 The DfE have issued guidance noting that the maintained Schools Forum representatives have the option to opt in all maintained primary and/or secondary schools to the RPA "en-masse". Alternatively, maintained Schools Forum representatives may decide that schools should arrange their own insurance (which may include the RPA) or continue with the current arrangement of inclusion within the Council's insurance.

7.4 It is recommended that maintained Schools Forum representatives agree to continue with the current de-delegation of the budget and for the Council to continue to arrange insurance on behalf of maintained schools. Similarly, it is recommended that Schools Forum representatives agree to continue to arrange insurance on behalf of PRUs, special schools and nursery schools.

7.5 Should the maintained Schools Forum representatives agree to this recommendation, the next opportunity to consider subscribing to RPA would be at the time at which the Council retendered for its insurance services. This

is scheduled to be 1st May 2023 but the Council may choose to extend its current contract to 1st May 2025.

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3rd July 2020

Accompanying Documents:

Appendix 1 - Insurance Cover Comparison

REPORT AUTHOR

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