

RPA v COUNCIL'S INSURANCE PROGRAMME

Introduction

This report is about future insurance arrangements for council maintained schools (including Trusts etc). Under budget reforms introduced 30 years ago, all schools are entitled to choose their own insurer, few have chosen to use alternative providers, most have used the council for insurance.

Academies must arrange their own insurance. Without the economies of scales that come with being part of a Council programme, insurance costs for academies are significant. The Government set up an alternative to insurance to offer to academies called the Risk Protection Arrangement, or RPA. Until April 2020, the RPA was only available to academies. It was extended to Local Authority Maintained Schools (LAMS) with effect from 1 April 2020. Joining the RPA is on a voluntary basis. However, where LAMS are tied into long term agreements (LTAs) with their local authority (and they are with Kirklees Council), they are obliged to wait until the LTAs expire.

About the RPA

The RPA is an alternative to commercial insurance offered on behalf of the DfE. It is not insurance. It is underwritten by the Government. It provides cover for all of the school related risks currently insured by the Council apart from engineering and motor (note 1). The cover is broadly comparable between the RPA and the Council. From 1 April 2021 the RPA will charge £19 per pupil on roll for maintained schools or per place for special schools.

About the Council's insurance

The council buys commercial insurance for its high value risks, such as public liability, employers' liability and fire. It self-insures most lower level risks and policy excesses. The insurance cost is distributed around the council (including LAMS) based on an assessment of the risk from the activities and factors such as property value, payroll, and the number and value of claims (risk based).

The Council enters into LTAs with commercial insurers – contractual arrangements intended to secure premium certainty and discounted premiums.

The main liability and property policies are now in the last year of their LTA (expiry 29 September 2021) and the tender process will start in April 2021.

About Schools

Schools are required to have insurance but do not have to buy it via the Council's insurance arrangements. Historically, all LAMS have bought insurance through the Council. This has achieved economies of scale for them with the risk being spread throughout the Council.

The Council's current insurances have been sought on the basis that LAMS will participate in and contribute to the Council's insurance costs. No school gets charged the same. Smaller schools tend to pay more (sometimes significantly more) per pupil than larger schools. Special schools pay comparatively large costs.

Financials

For the current financial year, out of a total Council insurance cost of circa £3.9m, schools contributed 20% or £775k. Not all Council insurance costs are contributed to by schools. In terms of the main liability insurances, and a risk based approach to cost, schools paid 32% of the Employer's liability cost and 30% of the Public liability cost.

This year the schools' insurance cost contribution to RPA equivalent risks was £750k.

There are currently 34,727 pupils on roll. This is less than the overall LAMS capacity in Kirklees. Using the risk based method of calculating insurance cost, then dividing that by the number of pupils/places, the charges per pupil range from £123.41 (Woodley School & College); £47.96 (Holme J&I) to £12.69 (Netherhall Junior).

It is clear that some LAMS will be better off under the RPA – in particular special schools and small schools, and some will be worse off. Based on this year's insurance costs 45 schools are better off with the Council and 69 are worse off.

The RPA price per pupil/place at £19 would generate £659,813.

If special schools join the RPA they would spend £11,248 on insurance rather than the £48,500 it currently costs them.

The insurance market

The insurance market is cyclical moving from soft to hard over a number of years (note 2). We are now in a hard insurance market. The Council's current liability insurers have increased the premium significantly over the last 5 years. At the last renewal 70% of their public body customers saw significant price increases and breaches of LTAs. The reinsurance market (the Council's larger risks are reinsured) is seeing increases of 10-17.5%, which will inevitably lead to increased premiums.

If all LAMS choose to join the RPA, the Council will not have the benefit of the LAMS' contribution to the overall insurance cost. It is possible that some premiums will reduce but the considered view from the insurance market is that the reduction in premium would not be the whole amount currently paid by schools.

Risks not covered by the RPA

- Motor vehicle
- Motor Occasional Business Use (OBU)
- Engineering inspection
- Staff parking

Not all LAMS have motor vehicles or assets that require statutory inspection. However, it is a legal requirement to have motor insurance and a statutory requirement to have lifting equipment and pressure vessels inspected by an independent competent person (note 1).

The Council currently offers OBU motor cover for school staff who need to drive their own vehicles on an occasional basis on school business. The Council also insures parking risks for staff cars. Both the OBU and staff parking are traded services on KBS.

RPA v Council comparison

The RPA is not insurance. It is a commitment to address liabilities. There is some evidence that the RPA is less responsive than local authority or commercial insurance teams, but that does not mean that it does not settle valid claims. It may potentially be more complex when a claim involves an employee (of the school, and hence, in community schools, the council), or in the event of a catastrophe such as a fire.

The RPA gives no price commitment

- its prices could go up or down
- its pricing could be restructured.

The RPA arrangement is based on pupils on roll and does not take account of any arrangements to improve or promote good risk management practice, such as site security arrangements.

The Council offers a locally based and integrated solution with an ability to speak with named individuals and to discuss areas of claim and potential claims and liability, and a support to risk management and control, linked in with matters such as health and safety reporting and asset management. The council will assist with ensuring good risk management practice.

The way forward?

- Continue to charge LAMS using the risk based method and let them decide whether to join the RPA. However, as more LAMS join the RPA, insurance costs are unlikely to reduce proportionately and a smaller pool of schools will have to fund the premium such that there could, in a relatively short period of time, be no justifiable financial advantage to staying with the Council's insurance programme.
- Encourage special schools to join the RPA because of the obvious cost advantage and transference of risk, helping to reduce costs to all other LAMS and the Council. If only special schools were to transfer to the RPA, the Council could still provide support to them where needed.
- Commit to matching the RPA rate for all LAMS for a 3 year period, with a formal contractual arrangement and the Council absorbing any "insurance cost shortfall" as ultimately this will be more cost effective to the Council than having to absorb a larger overall premium if LAMS join the RPA. If a school decides to join the RPA, they cannot return to the Council's insurance programme until the next formal tender.

Options

Each school, or as a collective, needs to decide what they want to do.

1. If all or a large proportion of LAMS wish to join the RPA, the council will leave the schools market. It cannot sustain operations with a small number of LAMS remaining.
2. If a viable proportion of LAMS express a wish to remain with the council, the council will use the information to seek tenders on that option basis. Provided that the tenders create a situation where the council can reasonably and sustainably continue to operate in the schools market it will do so, and the council will enter into LTAs that will tie schools into continuing to participate – for 3, or maybe 5, years.

This could be on the basis of

(i) Individually priced risk based costs (prices would vary on real cost)

(ii) An RPA price match option (prices would vary on the RPA price)

All schools will need to choose one of the options; it not possible to have both

If option 2 is chosen the council will continue to offer support to special schools that are asked to join RPA. It will not support other LAMS that have chosen to join RPA. If special schools choose to remain with the council, they will be charged actual costs, and be tied into the LTA.

If having considered the options chosen by LAMS and the prices it receives in tendering exercises in summer 2021 the council cannot reasonably continue, it reserves the right to ask all LAMS to join the RPA.

3. If a school joins the RPA, for the time being, the Council intends to continue to offer the covers not provided by the RPA

- Motor
- Motor occasional business use
- Engineering inspection
- Staff Parking

Indications will be needed from LAMS as to which, if any of these insurances they intend to buy.

Subject to comments from the Forum, schools will be contacted to ask for their preference for future insurance arrangements with feedback required by the end of April 2021

Notes

Note 1

Engineering inspection is the statutory (LOLER/PUWER) inspection of certain devices to establish they are safe. It applies to lifts, hoists, certain boilers and pressure vessels and to school workshop equipment e.g. autoclaves
Motor insurance is for vehicles owned by the school; typically minibuses. It also covers occasional business use for school staff – OBU cover is currently a traded service.

Note 2

Hard and soft insurance markets - Soft = better risk appetite from underwriters = more products available = lower premiums. Hard = reduced risk appetite = fewer products available = higher premiums.