

## EAST RIDING OF YORKSHIRE COUNCIL

**Report to:** East Riding Schools Forum  
28 January 2021

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### Insurance Arrangements for Maintained Schools

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Report of the Director of Corporate Resources

#### **A. Executive Summary**

With effect from 1 April 2020, the Department for Education extended the availability of its Risk Protection Arrangement (RPA) to local authority maintained schools. The RPA is a discretionary pooling mechanism put in place as a cheaper alternative to commercial insurance policies.

Currently, maintained schools are provided with insurance cover through the Council insurance arrangements.

For several important reasons, it is considered that joining the RPA would not be the best outcome for schools. The RPA would not provide coverage for all key risks, a contractual guarantee of payments, or recognise the use of schools as community assets outside of education provision. It also fails to cover the Council for its duties in ensuring continuity of education provision and there is a lack of clarity over how the scheme would cover the Council as the employer for employers' liability claims.

The service provided by the Council and its insurers is considered to be superior to that offered by the RPA. It provides schools with access to the advice, support, expertise and local knowledge provided by the Council in obtaining the correct cover and dealing with insurance claims. Furthermore, the combined power of the Council and insurer provides a range of added value services, including specialist risk management advice, support and claims management. The Council's insurers have a proven track record, with expertise being provided in specialist and sensitive areas such as safeguarding and catastrophic losses.

#### **B. Corporate Priorities**

Helping Children and Young People Achieve

#### **C. Recommendation and Reason for Recommendation**

It is recommended that the Forum notes the contents of the report.

#### **D. Equality Implications**

The equality implications have been considered and no negative impacts upon protected characteristic groups were identified.

## **1 Background**

- 1.1 In September 2014, the Department for Education (DfE) launched the Risk Protection Arrangement (RPA) for academies, academy trusts and free schools as an alternative to commercial insurance. The RPA was initiated in order to help reduce the cost to the public purse of protecting academies against insurable risks.
- 1.2 In September 2019, the DfE issued a public consultation to consider extending the RPA to Local Authority Maintained Schools (LAMS). The results of the consultation were published on 21 January 2020, resulting in the DfE extending the RPA to include LAMS from 1 April 2020.
- 1.3 Schools could apply to be members of the RPA in two ways. Either through the local authority opting in on behalf of all maintained schools en masse on the vote of the schools forum, or individual governing bodies of schools could decide to join the RPA. Due to the late introduction of the change, the DfE did not expect mass membership through delegation in 2020-21.
- 1.4 The Schools Forum met on 30 January 2020 and no decision was taken on behalf of schools to join the RPA en masse. Schools Forum members wanted to first hear back from their colleagues on their wishes. As a consequence, any school joining the RPA in 2020-21 would have needed to make their own decision to join.

## **2 Advantages of the RPA to Schools and the Council**

- 2.1 In its consultation, the DfE emphasised the potential upfront cost savings for schools that opt into the RPA as the price is a fixed rate per pupil and is not affected by the value of the school building or poor claims experience.
- 2.2 The RPA provides legal expenses cover relating to employment disputes, contractual disputes, tax investigations, civil actions in relation to school expulsions, employment disputes & other disputes.
- 2.3 The RPA provides slightly wider cover than that purchased by the Council, e.g. terrorism and subsidence cover. However, it is a conscious decision made by the Council, through consideration of the level of risk locally against the cost of purchasing insurance cover for these risks.

## **3 Areas of Concern of the RPA to Schools and the Council**

- 3.1 Schools that join the RPA would lose the support that the Council's insurance team and the wider local authority provide to schools on insurance matters. Local knowledge is used to determine the best proposition and appropriate level of service for schools. This knowledge and local support is fundamental when a school has an issue and needs assistance. Under the RPA, this local knowledge and support will be lost.
- 3.2 The RPA does not cover the full package of risks. Engineering inspections and motor insurance will need to be purchased separately. There is concern that schools may not have the expertise to know the extent of insurance coverage required outside the RPA.
- 3.3 The RPA has been established as a form of discretionary pooling mechanism. A discretionary pool is not insurance and it is believed that no catastrophic protection has been purchased to protect the fund. Insurance is a contractual commitment from one party to another. A discretionary pooling arrangement does not provide any contractual guarantee of payment either now nor in the future. If the RPA ceased, it is not known whether the

DfE would continue to pay claims relating to the period that the arrangement was in place that it is not legally liable to honour.

- 3.4 Schools form part of the local authority infrastructure and undertake the role of more than just a school, for example, voting and community assets. Current insurance arrangements recognise this and respond in partnership with all users in the event of a loss. There is concern that the RPA will not take this into consideration.
- 3.5 In the event of a major loss, the RPA is not obliged to replace a school to the same quality or to suit the requirements of the local community.
- 3.6 It is not clear how the RPA will respond to employers' liability claims. School staff would still be employees of the Council and in the event of an injury to a member of staff they would litigate against their employer, the Council. However, the Council would no longer be indemnified under its own insurance arrangements for such claims.
- 3.7 The duty to educate the children remains with the Council. In the event of a claim, if there is an issue with the RPA, the Council may need to find and fund alternative accommodation.
- 3.8 The combined power of the Council and insurer provides a range of added value services, including specialist risk management advice, support and claims management. Insurers are experts in this area and carry out a programme of surveys to inspect premises and make recommendations for improvements to better manage the risks. Insurers have a proven track record, with expertise being provided in specialist and sensitive areas such as safeguarding and catastrophic losses.
- 3.9 The DfE has given local authorities the option of being able to set the operating model and to continue to be able to provide our vital layer of expertise. However, this service cannot be provided without cost and the DfE notes it is reasonable to expect this to be recouped through a service charge to the school.

#### **4 Council Insurance Arrangements for Local Authority Maintained Schools**

- 4.1 For economies of scale, the Council purchases blanket external insurance policies with large excesses. All maintained schools have traditionally arranged their insurance through the Council.
- 4.2 Each year an individual insurance quotation was sent to schools, detailing their insurance charge for the forthcoming financial year. Prior to 1 April 2020, the insurance charge was calculated on a combination of factors such as the buildings sum insured, pupil numbers, salaries & wages, claims experience and amounts to cover claims below the policy excess. Large schools with the most staff and pupils paid more than the smaller schools. Schools with a good claims experience paid less than schools with more claims.
- 4.3 In 2019-20, the amount charged by the Council to schools based on price per pupil ranged from £12 to £100 and averaged at £25.21 per pupil.
- 4.4 As the Department for Education (DfE) had decided to extend their Risk Protection Arrangement (RPA) to Local Authority Maintained Schools from 1 April 2020, it was felt that amendments needed to be made to the way the Council calculated its insurance charges to schools, otherwise there was a risk that schools with an adverse claims history would move to the RPA due to the savings that they could make, leaving the remaining schools with higher insurance costs.

- 4.5 The Council was able to match the £18 per pupil charged by the RPA by simply passing on maintained schools' share of the Council's insurance premiums. As a result of matching the price offered by the RPA, only one school, at their Diocese insistence, moved to the RPA. However, experience in 2020-21 has proved that the charge is insufficient to fund schools' claims below the Council's policy excesses, particularly in the wake of the Covid-19 pandemic. Therefore, pricing needs to be revised with effect from 1 April 2021.

## **5 Arrangements from April 2021**

- 5.1 Individual schools remain free to join the RPA if they wish. The cost of the RPA from 1 April 2021 will increase to £19 per pupil.

- 5.2 The Council will continue to purchase insurance for schools in the current manner and calculate the charge to schools on a price per pupil basis. However, it will not be possible for the Council to maintain the price at £18 per pupil. Early indications are that the price per pupil will need to be set in the region of £26 per pupil, for the following reasons:

5.2.1 An insurance revaluation on all school properties has been completed during 2020-21. The resultant increase in the buildings sum insured has incurred an additional premium of £68,000.

5.2.2 The Council's insurer for personal accident and travel insurance removed all cover for Covid-19 related claims with effect from 1 October 20. It was recognised that the financial consequences could be severe for schools as they would be without cover for school trips that were cancelled due to Covid-19 whilst having to provide refunds to families. Consequently, the Council took the decision to source cover from an alternative provider but this resulted in a premium increase of £34,000.

5.2.3 Whilst it covers the costs of premiums, the current charge does not provide sufficient funds to meet the cost of claims falling below the Council's policy excesses. The annual costs of claims received in the last five years which fall below the policy excess averages at £89.5k.

- 5.3 It should be noted that the Council will need to review arrangements if a significant number of maintained schools opt to join the RPA. This would increase insurance costs for schools that remain with the Council for insurance as it would reduce economies of scale, and it would also threaten the viability of the schools' sickness and absence insurance scheme administered by the Council.

## **7 Conclusion**

- 7.1 For several important reasons, it is considered that joining the RPA would not be the best outcome for schools. The RPA would not provide coverage for all key risks, a contractual guarantee of payments, or recognise the use of schools as community assets outside of education provision. It also fails to cover the Council for its duties in ensuring continuity of education provision and there is a lack of clarity over how the scheme would cover the Council as the employer for employers' liability claims.

- 7.2 The service provided by the Council and its insurers is considered to be superior to that offered by the RPA. It provides schools with access to the advice, support, expertise and local knowledge provided by the Council in obtaining the correct cover and dealing with insurance claims. Furthermore, the combined power of the Council and insurer provides a range of added value services, including specialist risk management advice, support and claims management. The Council's insurers have a proven track record, with expertise being provided in specialist and sensitive areas such as safeguarding and catastrophic losses.

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<b>Background Papers</b>	None