

Schools Forum Briefing

1.	Date of meeting:	26th June 2020
2.	Title:	Risk Protection Arrangement (RPA)
3.	Directorate:	Finance & Customer Services

Summary

Following a government consultation, the Department for Education (DfE) is extending the academies' Risk Protection Arrangement (RPA) to Local Authority maintained schools.

This paper provides information on the scheme – as much as we know to date - and aims to advise on the issues that should be considered by schools before signing up.

Recommendations

- That the contents of the briefing are noted.

1. Background

Originally developed to enable academies to access affordable insurance cover, the Department of Education (DfE) is set to extend the Risk Protection Arrangement (RPA) to Local Authority maintained schools from April 2020.

While the RPA's headline rate of £18 per pupil can understandably look attractive, it's important to undertake a full comparison of what's available before deciding whether to switch.

1.1 Cover Comparison

Firstly, it's important to consider the cover. The RPA provides an extensive range of property and casualty covers including the reinstatement value of the property in the event of material damage; Business Interruption cover of up to £10m for increased cost of working; and unlimited Public Liability, Employers' Liability and Professional Indemnity.

As it's designed as a 'one-size-fits-all' approach this will suit some schools, but others could find there are significant gaps when compared to the cover accessed through their Local Authority. Alongside potentially lower limits on some areas of cover – for instance £100,000 of Personal Accident cover through the RPA compared to no fixed limit for insurance arranged by the Local Authority – the scheme doesn't provide some of the insurance that Local Authorities currently do, notably Motor and Cyber cover, as well as Engineering Inspections. This cover/service will have to be sourced and arranged separately at additional cost to the school.

Similarly, there are no guarantees as to how the RPA proposes to address any emerging heads of claim / risks that may occur in the future.

There are also concerns that as the RPA is a pooled pot of money, rather than an insurance policy placed with an external insurer, a run of large claims could cause serious problems. In the event of a string of high value losses exhausting pool reserves the scheme would be reliant on the DfE or Treasury to top up the pool to pay for these and future losses. Alternatively, they may turn to schools for additional funding and/or increased contributions, which some schools may not be able to afford.

Discretionary pooling arrangements don't provide any contractual guarantee of payment either now or in the future. If the Government (or a new Government?) decided that the RPA was no longer viable and terminated the scheme it's unclear whether the DfE would continue to pay claims that it wasn't legally obliged to honour or whether this liability would revert back to the Council, given that we still have statutory duties linked to the provision of education.

1.2 Support Services

Cover is one element that needs to be considered but it's also important to note that the recharge the Local Authority makes to a school doesn't just comprise the cost of insurance.

As well as the cover, the Insurance Section also provides invaluable Insurance and Risk Management advice and guidance, a comprehensive claims handling service and other general support; such advice and assistance are not readily available from the RPA.

Additionally, while the RPA does include £100,000 of cover for legal expenses, in some situations this could be far below the value of the service and support provided by the Local Authority's Insurance Section and our designated legal partners.

It's worth noting that dealing with a complex Public or Employer's Liability insurance claim will often incur legal costs that far outweigh the damages awarded to the claimant. Such costs are currently absorbed in their entirety by the Council's Insurance Fund.

1.3 Break in Long Term Agreement

As well as assessing how any losses would be treated under both arrangements, issues could also arise as a result of schools moving to the RPA that would impact on those schools who choose to remain insured by the Council.

Removing schools from an authority's insurance programme could be regarded by the insurers as a break in the Long-Term Agreement (LTA), potentially leading to increases in premiums. In the current hardening market, this could prove expensive. Rotherham is currently tied into a 3-year LTA (expiring 27th February 2022) with an option for an additional 2 years beyond that.

It's worth remembering that the Council arranges its insurance cover on a blanket basis for the entire authority rather than on a 'school by school' or 'service by service' basis, thus spreading the risk and cost across the Authority.

Consequently, although removing schools from our insurance programme would slightly reduce premiums for areas such as Property and Material Damage, it would be unlikely to yield any significant reductions for liability cover. Indeed, for the reasons outlined above, this could even see slight increases in liability premiums for all services, including schools.

1.4 Insurable Interest

Alongside the financial implications, Local Authorities also need to consider how the RPA might affect their legal position. As the Statutory Body, the authority would maintain responsibility for education, regardless of whether a school opts into the RPA.

This means that, should a claim arise, the Local Authority could still find itself facing legal action as well. As a result, even where schools are in the RPA, insurers will continue to reflect this risk in their premiums.

1.5 Conclusion

Local Authority maintained schools considering a switch to the RPA must carefully consider the implications of such a move, including factoring in the cost and value of services provided by the Authority as well as the insurance covers not provided by the RPA.

It will represent good value for some schools, but it is essential that they understand all the implications and potential costs that they, and the Local Authority, might face before making a decision.

There are still many 'unknowns' at this stage, largely because the DfE has released very little in the way of claims and performance-related information. Consequently, insurers and brokers have not been able to formulate the additional management information that would prove of great assistance in decision making.

If this situation does change in the months ahead, all relevant information will be circulated to both schools and management.

Schools requiring additional information or guidance - or wishing to opt out of the Council's insurance arrangements in favour of the RPA - should contact Andrew Shaw (Insurance Manager) in the first instance.

2. Name and Contact Details

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