



Hampshire County Council

Insurance Strategy

1. Introduction
2. Approach to Risk Financing and Insurance
3. The Advantages of Self-Funding
4. Insurance Programme
5. Insurance Provisions and Reserve (Insurance Fund)
6. Reviewing the Insurance Fund
7. Claims Handling
8. Governance Arrangements
9. Procurement
10. Insurance Broker

1. Introduction

This insurance strategy provides the framework to ensure that the County Council has in place an optimal balance between external insurance and self insurance and that appropriate and robust arrangements are in place for the handling of insurance claims and the calculation and maintenance of the insurance reserve.

The key strategic elements of this strategy are set out in detail within the remainder of this document, they are:

Strategic aim 1: To maintain an adequate insurance reserve to meet potential and contingent liabilities and to support the County Council's insurance programme.

Strategic aim 2: To maintain an insurance programme that provides the optimal balance between insurance and risk retention.

Strategic aim 3: To maintain appropriate operational policies for the handling of insurance claims, recharging to services and presentation of risks to insurers.

2. Approach to Risk Financing and Insurance

Insurance is a financial mechanism through which an individual or organisation can transfer an unknown potential liability into the certainty of a smaller but fixed annual cost. By combining a large number of exposures into a group, the insurer can predict the probability of loss relating to uncertain events with a degree of accuracy for the group as a whole. With large organisations, such as the County Council, that combining of large numbers of exposures can be undertaken across the organisation with similar degrees of accuracy in relation to possible losses to the whole organisation.

The County Council has, for the last 40 years, followed the strategic approach of self funding insurable losses, using commercial insurance only where there are compulsory requirements or where it has deemed it more appropriate to do so, particularly to provide a cap to its financial liabilities in respect of third party liability claims.

The County Council's insurance arrangements are therefore a mixture of self insurance and commercially purchased insurance, with decisions on the balance between the two based on risk. The arrangements fall into three groupings:

a) risks that the County Council entirely self insures

b) risks that the County Council self insures, with commercially obtained insurance that caps the cost of losses

c) risks that have the benefit of commercially obtained insurance cover

Under the self funding arrangements (a & b) losses are met from a fund of money set aside for the purpose, on the basis of defined events, just as though there was conventional insurance cover. At the County Council this is referred to as the Insurance Fund.

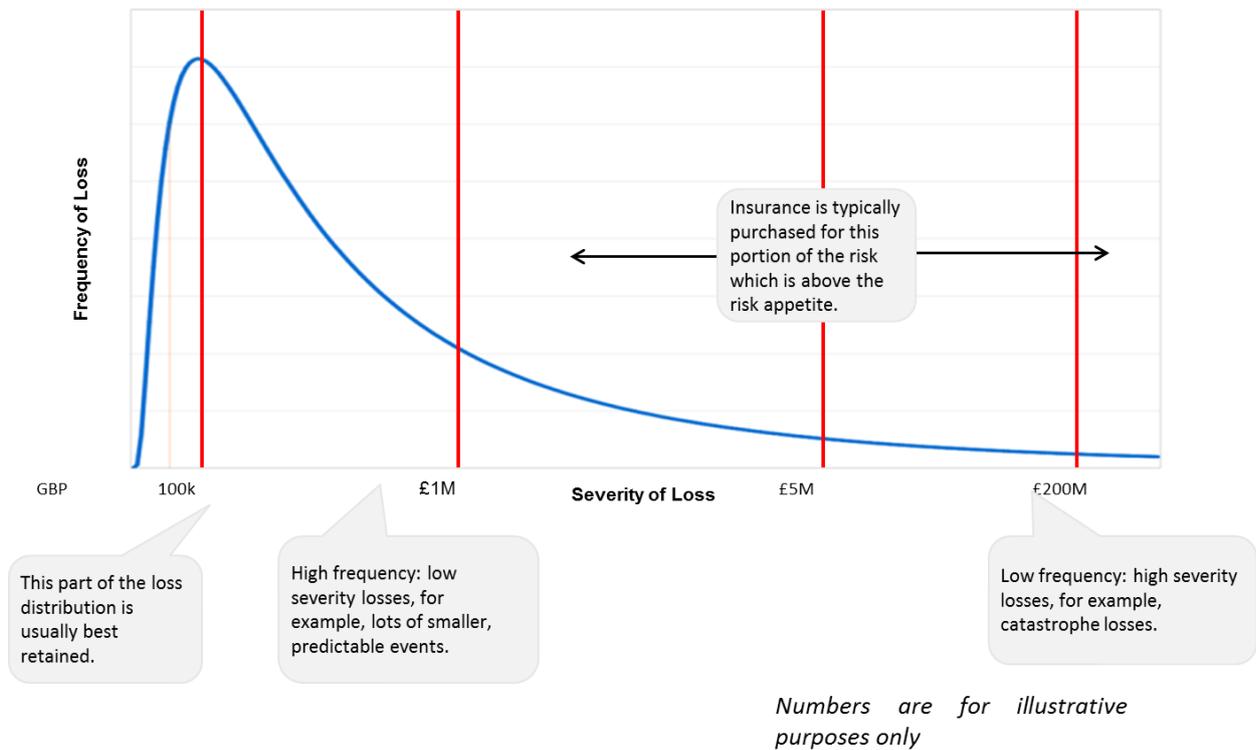
Each year the County Council sets aside an insurance provision in the Insurance Fund to meet claims resulting from incidents that have occurred during the year, along with reserves to cover potential claims arising from incidents in that year but where the claims are received in the future.

Decisions about the risks and the appropriate self funding provision for them are made based on a balance of four factors:

1. **Risk Tolerance:** The County Council's capability to withstand shocks.
2. **Risk Appetite:** The County Council's willingness to assume insurance risk
3. **Risk Modelling:** The profile of our insurance loss distributions (e.g. previous claims)
4. **Market Pricing:** How insurers will price our risk.

The diagram below outlines the advice provided by insurance brokers to optimise the balance between the costs of risk retention and risk transfer. In areas where there are high numbers of frequent claims it is easier to calculate potential annual loss costs more accurately:

How to Optimise Insurance Purchase



The table below summarises the decision-making process:

Type of Loss	Frequency	Severity	Predictability	Impact	Decision
Low	High	Low	High	Small	Self Insure
Medium	Low	Medium	Reasonable	Serious	Part self-insurance Part Insurance
High	Rare	High	Minimal	Catastrophic	Insure

The County Council will regularly review the balance between self-insurance and commercially purchased insurance policies.

3. The Advantages of Self Funding Insurance Arrangements

The payment of an insurance premium to an insurer provides a known cost for an unknown outcome, in that the customer does not know in advance the amount of claims they are likely to have. For large organisations such as the County Council it is possible to calculate the likely losses accruing from insurable events over the year, based on the cost of claims in previous years and trend analysis.

In adopting a self insurance approach for a number of years, the County Council has been able to take advantage of a number of benefits and incentives.

The economic benefits have been:

- Savings made on the extra costs insurers load on premiums for expenses, profits and reserves.
- Savings arising from the County Council's good loss experience, any surpluses have accrued to the County Council rather than the insurer.
- Savings in Insurance Premium Tax (IPT) as IPT is payable on insurance premiums (currently at 12%) but not payable on self insurance recharges. (Unlike VAT this is not recoverable).
- Premiums are paid at the beginning of the policy year, whereas claims payments are made as insurable events occur during the year; therefore, investment income on retained premiums will have accrued to the County Council rather than an insurer.

In addition, the managerial incentives are:

- Increased flexibility in handling risk
- Retention of control over the funds that would otherwise be paid to the insurer
- Increased potential to extend control over losses
- Greater control over the management of individual claims
- Greater control over the quality and price of ancillary services such as claims handling and preferred suppliers. The internal claims handling, managed by Legal Services, in particular, has provided both considerable cost advantages, control and continued high levels of professional service.

4. Insurance Programme

As stated above, the County Council's insurance arrangements are a mixture of self insurance and commercially purchased insurance, with decisions on the balance between the two based on risk. The arrangements fall into three groupings:

a) risks that the County Council entirely self insures

b) risks that the County Council self insures, with commercially obtained insurance that caps the cost of losses

c) risks that have the benefit of commercially obtained insurance cover

The Insurance Programme

a) Risks that the County Council entirely self insures by making provision in the Insurance Fund

- **The cost of fraudulent acts by members of staff**, often know as the Fidelity Guarantee
- **Personal Accident Cover**, for staff, this provides set benefits in accordance with contractual requirements in the event that staff suffer injuries whilst at work.
- **Damage to the majority of the County Council's Property**, this covers most of the County Council's built estate against fire, lightning and explosion only, with the addition of major storm and flood damage cover for maintained school buildings.
- **Property and Building Works, Contractors All Risk**, this covers buildings works on/in existing buildings within the works area.
- **Contents**, the risk of loss of property, equipment and monies belonging to the County Council and appearing on the establishment's inventory as a result of theft, fire, lightning and explosion only, with the addition of major storm and flood damage cover for maintained school buildings.
- **Ex Gratia Payments**, this scheme covers damage to, or loss of, employees personal property incurred during the course of their employment without any negligence on the part of the Council. The ex-gratia scheme, is extended to cover fees for medical treatment of staff who have suffered a personal injury, as a result of an extraordinary event or act of aggression whilst on duty.
- **Leased IT/Electrical equipment**, this covers schools who have leased equipment for All Risks perils following a payment of an additional premium.
- **Additional contents**, this covers schools for a range of risks not offered by the Insurance SLA i.e. minor water damage, accidental damage, vandalism. Schools pay an additional premium to cover contents that are owned and on school inventory.
- **Cash on premises (non-schools)**, this covers a maximum £1000 cash holding within a safe (or in transit in a County Council vehicle).

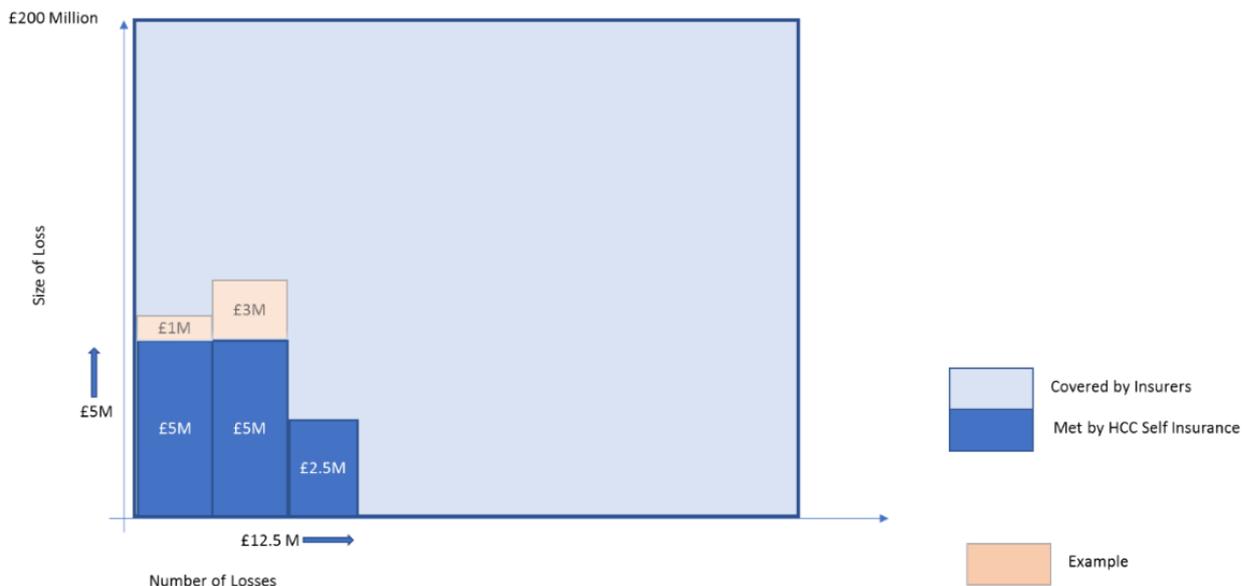
b) Risks that the County Council self insures, with commercially obtained insurance that caps the cost of losses

- Third Party Liability claims from members of the public employees and pupils/service users**, the County Council is liable to pay the first £5 million of any claim, up to a total amount of £12.5 million in any one year, and any part of a claim in excess of £200 million. This insurance is on a Combined Liability basis and consists of **Public and Products Liability, Employers' Liability and Pollution Liability** and provides insurance against third party claims for injury, damage to property and financial loss arising from activities as a County Council. This includes claims against the County Council arising from the use of the Highways. The current arrangements consist of a commercially tendered insurance policy with a deductible (policy excess) of £5 million, with an aggregate of £12.5 million and a limit of indemnity of £50 million. A series of insurance policies provides additional layers of insurance, up to a limit of indemnity of £200 million.

As the table below illustrates, this means that for claims from third parties, the County Council is liable to pay the first £5 million of any individual claim from the self insurance arrangements, with insurers meeting costs of individual claims over £5 million and up to £200 million for any incident or series of incidents arising from the same cause. This operates in a similar way to an excess in a domestic insurance policy. In addition, should the County Council be liable for more than £12.5 million in claims in any year in aggregate, any liability beyond £12.5 million during that year would also be met by the insurers.

So, for example if claims of a) £6 million, b) £8 million and c) £2.5 million were received in 1 year, the County Council would meet £5 million for each of claims a) and b) and £2.5 million in claim c). The amounts above £5 million in claims a) and b) (£1 million and £3 million) would be met by insurers. In addition, because the County Council would have met £12.5 million in total that year, any further claims would be met in their entirety by insurers.

Operation of the Deductible and Aggregate - 3rd Party Liability Claims



The aggregate is calculated based on the total cost of claims paid set against the year the accident occurred. The payments made against that year are monitored to determine whether the aggregate level is breached. As liability claims may take years to settle, the aggregate level for that year may not be exceeded until a number of years later.

So, for example, in year X £7million worth of claims are received for events that occurred during that year. In the next year, Y, a further £3 million worth of claims are received for year X, making an aggregate total of £10 million. In the following year, Z, a further £3 million worth of claims are received for incidents that occurred during year X, making a total aggregate level of £13 million. Of this £12.5 million has been paid by the County Council, with £0.5 million being met by insurers. Any further claims in subsequent years for claims occurring in year X would be met by insurers.

Liability claims may be received some time after an accident or event occurs, in some cases years after. In addition, complex cases may take some time before a conclusion on the appropriate amount of compensation is reached. An estimate of the final cost of a claim, or reserve, is made at the commencement of the claims handling process. This is monitored and may alter throughout the life of the claim as facts develop. This reserving practice means that at all times the County Council can monitor its self insurance liability in relation to the aggregate limit.

It is the County Council's responsibility to advise the insurer of the potential breach of the aggregate. When the breach is as a result of paid claims and reserves on outstanding claims, it is referred to as a "theoretical" breach. At this point, the insurers will require reassurance from the County Council that claims paid by the County Council have been handled within the scope of the policy wording, the liability decisions are correct, and settlement amounts are reasonable. All numbers on claims files must tally 100% with IT systems and reports. The insurer is likely to hold a file audit of claims paid. At the point of an actual breach (i.e. when claims have been paid up to the aggregate value), the insurer may wish to handle any outstanding claims and all new claims. As different insurers take different approaches to this area, specific arrangements for payments of claims following a breach of the aggregate would need to be agreed with the insurer concerned.

It should be noted that to date there are no instances where the payments made by the County Council have approached the aggregate limit.

In addition to Public Liability, Employer's Liability and Pollution Liability, the following areas of claims are also counted towards the Combined Liability aggregate limit of £12.5 m.

- **Community Use**, this covers schools that sign up to an additional premium. This is an extension of PL/EL cover and covers third party claims arising from the use of school buildings for non-school activities.

- **Hirer's liability covers non-commercial hirers using HCC premises**, the County Council is liable to pay the first £100 of any claim up to a total of £12.5m in any one year, and any part of a claim in excess of £5m. This provides cover for small organisations and individuals who hire County Council buildings.
- **Libel/slander covers HCC for defamation claims**, the County Council is liable to pay the first £5000 of any claim up to the total of £12,5m in any one year, and any part of the claim in excess of £1m.
- **Officials Indemnity provides coverage for the errors and omissions of public officials**. The County Council self-insures these claims, with insurance above £5 million up to £10 million, but payments made below £5 m count towards the Combined Liability aggregate of £12.5 m.

c) Risks that have the benefit of commercially obtained insurance cover

- **Motor**, this covers the County Council's general fleet of vehicles for third party fire and theft, with cover up to £5 million (commercial vehicle), £50 million (any motor car) and a £100,000 excess per claim. This excess was derived on the basis of premium terms offered by insurers and an analysis of previous claims costs.
- **Professional Indemnity Insurance**, this covers the County Council against claims from third parties for financial loss arising from the County Council's commercial activities, with cover up to £5 million. As the scope and size of the County Council's commercial activities have expanded the level of risk of claims in this area has also increased. The insurable risk relates to claims for compensation from individuals or organisations for financial loss arising from the professional services provided by the County Council under contracts with others.

The County Council has three commercial professional indemnity policies in place. The first covers all County Council departments up to £5 million with a £5,000 excess per claim. The second covers Property Services up to £5 million with a £10,000 excess per claim. The third covers Scientific Services up to £5 million with a £5,000 excess per claim.

The premiums for these insurance policies are calculated from annual returns from Departments that outline the activities the Departments need cover for and the estimated fee income derived from those activities.

Only those activities notified to the insurers in the annual return from Departments are covered by the Professional Indemnity Policy, any other activities are uninsured (i.e. the costs of any claims relating to activities not recorded in the annual return from Department will be met by the Department concerned). The cost of claims below the excess are met by the Insurance Fund. The costs of claims over the limit of indemnity is also met by the Insurance Fund.

Options to reflect the increasing commercial activities that the County Council is engaged in across a wide spectrum of services will be explored during 2020.

- **Medical Malpractice**, this covers the County Council in respect of claims from third parties arising from the County Council's provision of nursing homes, nurses, non-clinical nurses and occupational health services. The County Council has a commercial policy in place which provides cover up to £10 million (aggregate) with a £1,000 excess per claim.
- **Personal Accident and Travel Cover for Members**, this provides set benefits for Elected Members whilst they are travelling in the course of their duties (business travel) and should they suffer serious injury whilst performing their duties as a County Councillor. There is £10,000,000 cover for any one accident and specified sums insured for particular injuries and death, with no excess.
- **Travel for Officers and School Trips insurance**, this provides cover whilst staff are on business travel and for children whilst on school trips. There is £10,000,000 cover for any one accident and specified sums insured for particular injuries and death, with an excess of £50 for Cancellation /Curtailed claims.
- **Legal Expenses, insurance** is in place to provide protection in respect of legal expenses of foster carers, partners and children, with cover up £50,000, with no excess.
- **Property**, a small specified number of County Council buildings are insured, for example the Great Hall is insured for fire, lightning and explosion and commercial, industrial properties are insured for storm and flood damage and leasehold properties are insured where the lease contains specific insurance obligations, with various excesses and sub limits relating to particular buildings or insured perils.
- **Contractors All Risk**, whilst normally self-insured, in the case of high value projects (over £10 million or otherwise complex), bespoke contractors insurance is obtained as appropriate.
- **Aviation**, this covers the legal liability to third parties for death, injury or property damage caused by the aircraft or any article dropped from it; and covers the use of a drone.
- **Foster Carers property**, this covers the personal property owned by foster carers from loss or damage arising during foster activities.

5. Insurance Provisions and reserves (Insurance Fund)

The County Council's self-insurance is met by the Insurance Fund. This consists of a Provision, to meet the cost of claims arising from that year and a Reserve to cover potential claims arising from incidents occurring where the claim is received in the future.

These arrangements meet the requirements of the Code of Practice on Local Authority Accounting in the United Kingdom (the Code) prepared by CIPFA/LASAAC.

The definition, within the Code of a Provision is: "a liability of uncertain timing or amount.

A provision shall be recognised when:

- An authority has a present obligation (legal or constructive) as a result of a past event
- It is possible that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation, and
- A reliable estimate can be made of the amount of the obligation."

Guidelines on the use of the Insurance reserve (Fund) are contained in the CIPFA guidance note on local authority reserves and balances "LAAP bulletin 99 – July 2014", which outline that the Insurance reserve (Fund) is an earmarked reserve, accounted for separately, but remaining legally part of the General Fund, consisting of "sums held to meet potential and contingent liabilities".

The Insurance Fund can be used when the County Council becomes legally liable to settle (compensate) a liability claim that has been made against it or its officers and elected members and for which the County Council is liable for the costs of settlement under the relevant self-insurance criteria and any insurance policy excess. For property damage claims the Insurance Fund can be used to cover the cost of repair, replacement, reinstatement, site clearance, making safe or other associated costs in the event of an insured peril (or agreed peril for self insurance), within the limits of any relevant policy excesses. For all other types of insurance claim the Insurance Fund can be used where the claim meets the requirement for settlement under the terms of the relevant insurance policy (or relevant self insurance criteria). It can also be used to meet the costs of historic claims arising from the County Council's self-insured approach, for example arising from historic Public liability, Employer's liability, Officials Indemnity or Professional Indemnity claims that are not covered by commercial insurance, and to cover losses in excess of the cover provided by commercial insurance.

The cost of settling claims also includes the costs associated with investigating and handling the claim including the County Council's own legal costs, loss adjusters' fees, obtaining necessary reports etc. These costs and the actual monetary compensation or reinstatement value are the only costs that can be met from the insurance provision in relation to liability claims.

For the County Council's own property damage claims (including equipment, contents, loss of money) the costs associated with repair, replacement or reinstatement (including associated professional and legal fees) of the damaged item/s and/or building/s following damage caused by an insured peril, are the only costs that can be met from the Insurance Fund.

6. Reviewing the Insurance Fund to ensure continuing relevance and adequacy

To assist in the calculation of the appropriate sum to set aside in its Insurance Fund, the County Council uses the services of external actuaries employed by its broker.

The Insurance Fund maintained by the County Council has been subject to regular actuarial review and the conclusions of the most recent review are explored in more detail below. In addition, the claims handling processes operated by the County Council's Legal Services are audited by insurers to ensure that they comply with best practice.

Actuarial reviews were held in 2011 and 2014, both of which recommended no significant changes. A further actuarial review of the County Council's Insurance Fund was undertaken in 2017. That review recommended increasing the amount set aside to reserve against future claims for historic events.

A long-term approach is being taken to adjusting the reserves to reflect those assumptions, given that the County Council would not expect all potential liabilities to arise at the same time. The intention would be to regularly review the insurance reserve and to make year end contributions that move the County Council towards the level outlined in the latest actuarial assessment.

Actuarial reviews will be undertaken every two years to review the continued adequacy of the Insurance Fund.

7. Claims Handling

Hampshire Legal Services (HLS) Litigation teams deal with all third-party claims and departmental claims on behalf of the County Council.

Third party claims can be made by members of the public, employees and pupils/service users. These are civil claims made against the County Council and are claims seeking compensation or redress. Each claim is fully investigated by HLS and the relevant law applied. Liability is only accepted if there is legal liability or where it is commercially prudent to do so.

Third party claims alleging libel and slander are dealt with in their entirety by the Insurer's panel solicitor, as per the terms of the policy.

Internal departmental claims are made when departments have an insurable loss. These predominantly relate to property claims and motor claims. Self insured property losses are assessed and determined by HLS. Commercially insured

property loss claims are co-ordinated by HLS with the County Council's commercial insurer.

Departmental motor claims are dealt with in their entirety by the County Council's commercial motor insurer and HLS and departments liaise directly with them.

When liability is accepted in a third-party claim HLS negotiates the settlement on the best possible terms and in the best interests of the County Council. This can include commercial decisions to settle claims taking into account the prospects of success versus the costs of running matters to trial.

The County Council self insures third party claims for personal injury and damage to property up to £5m. HLS handles all claims up to that value, with reserves above £5 million being handled by the insurers, who appoint their own solicitors, who work closely with HLS

8. Governance Arrangements

Maintaining the Insurance Fund

Part III of Hampshire County Council's Constitution (Financial Regulations) states at paragraph 4.2 "The Cabinet is responsible for ensuring that proper insurance exists where appropriate". It then states at paragraph 4.3 "The Chief Executive is responsible ... for advising the Cabinet on proper insurance cover where appropriate."

The Director of Corporate Resources and Chief Financial Officer has delegated authority to commit resources within approved budgets and Financial Regulations pursuant to Part 2, Chapter 4 of the County Council's Constitution.

Pursuant to paragraphs 3.12 and 3.13 of Financial Regulations the Chief Financial Officer is responsible for advising the Cabinet and the County Council on prudent levels of balances and reserves including the prudent level of the Insurance Reserve (Insurance Fund)

The Chief Finance Officer's responsibilities include payments for losses accrued under the County Council's self-insurance arrangements, including third party claims and departmental claims.

Paragraph 2.8 of section A of the County Council's Financial Procedures provides that:

The Chief Financial Officer has authority to make special payments whether or not provision has been made in the approved estimates, in the following cases:

- payments specifically required by law
- payments under a court order
- payments under agreements entered into by and on behalf of the Council.
- payments made on the advice of the Chief Executive in the settlement of any action, complaint, or claim against the Council
- payments made on the advice of the Chief Executive in settlement of any complaint investigated by him or any maladministration identified by the Commissioner for Local Administration.

Paragraph 1.11 of section C of the County Council’s Financial Procedures provides that the Chief Financial Officer has responsibility on the advice of the Head of Law and Governance for determining whether or not a claim (both internal departmental claims on the Insurance Reserve and third-party claims) is covered by the County Council’s self-insurance arrangements.

Payments/settlements of any action, complaint or claim

The Director of Corporate Resources (who is the County Council’s Chief Financial Officer) has authorised the Head of Legal Services to act on her behalf to make any payments under a Court Order or to make payments, on the advice of the Chief Executive, in the settlement of any action complaint or claim (both internal departmental claims and third party claims) against the County Council up to the limit of £75,000.

The Chief Executive has authorised the Head of Legal Services to advise the County Council’s Chief Financial Officer on settlements (including meeting the payment of costs) up to £75,000 and to advise the County Council’s Chief Financial Officer on settlements over £75,000 in consultation with the Monitoring Officer of the County Council.

A scheme of authorisation from the Head of Legal Services to the Litigation Teams in Hampshire Legal Services authorises:

Settlements up to £5,000 may be agreed by two fee earners; and

Settlements of £5,000 and over must be approved by either the Assistant Head of Legal Services (Resolution) or a Legal Team Leader.

Summary:

Limits	Delegated to	Details
Over £75,000	Head of Finance on the advice of the Chief Executive	Delegated by Director of Corporate Resources
£5,000 - £75,000	Head of Legal Services	Delegated by Chief Executive and Director of Corporate Resources
Up to £5,000	Two Fee Earners approved by either the Assistant Head of Legal Services (Resolution) or a Legal Team Leader	Scheme of Authorisation from Head of Legal Services

Decisions and payments in relation to the placing of proper insurance cover and

determining the extent to which internal or external claims fall within the remit of the self—insurance arrangements

The Director of Corporate Resources has overall responsibility for the operation of the County Council's self-insurance arrangement, and these have been delegated to the Head of Finance. Delegation follows the above arrangements for payments and settlements through local procedures, with the Head of Risk and Information Governance providing advice and assistance where appropriate.

9. Procurement

HCC will procure policies or other forms of alternative risk transfer in accordance with the regulatory requirements applying at the time e.g. OJEU procedures. The County Council will seek Long Term Agreements (LTA's) to ensure value for money. These can range from 3 years to 5 years and some LTA's will have the option to extend for a further number of years. Some insurers will also offer fixed prices throughout the duration of the LTA which means financial certainty for that period of time.

Foster carer's property and Medical Malpractice are currently outside the tender and are procured annually.

10. Insurance Broker

HCC procures an external insurance broker to provide assistance to the Insurance Team. The broker provides advice and support on the day to day management of the portfolio, specialist covers, liaising with insurers when required and assistance with the procurement of policies. They will also do programme design reviews to ensure that the County Council has the most adequate and best value for money insurance programme.