

Board of Directors (in Public)

Item 5.8

Subject: Trust Insurance Arrangements
Date of Meeting: Tuesday 27th July 2021
Prepared by: James Bradley, Deputy Chief Finance Officer
Presented by: Karen Edge, Chief Finance Officer
Purpose of Report: For Approval

BAF Reference	Impact on BAF
BAF 7	The Trust has insurance through NHS Resolution, and also buys additional top-up insurance through commercial insurance providers in order to manage risk.

Level of assurance (please tick one)					
✓	Acceptable assurance Controls are suitably designed, with evidence of them being consistently applied and effective in practice	<input type="checkbox"/>	Partial assurance Controls are still maturing – evidence shows that further action is required to improve their effectiveness	<input type="checkbox"/>	Low assurance Evidence indicates poor effectiveness of controls

1. Executive Summary

NHS Trusts' insurance arrangements are primarily provided through membership of NHS Resolution (NHSR). In addition to the cover provided by NHSR, some Trusts also purchase additional cover through commercial policies where they have identified risk exposures in the indemnity offered by NHSR.

In line with the Standing Financial Instructions, the Chief Finance Officer shall ensure that insurance arrangements exist in accordance with the risk management programme, and that the Board are informed of insurance arrangements, consider the adequacy of the insurance cover in place and decide whether the Trust will insure through the risk pooling schemes administered by NHS Resolution.

The commercial policy was amended upon renewal, following advice from the broker and the offer presented by the insurance companies.

2. Trust Insurance Arrangements

The Trust has insurance from both NHS Resolution and additional cover from commercial insurance, as detailed below:

2.1 NHS Resolution

a. Clinical Negligence Scheme for Trusts (CNST)

The Clinical Negligence Scheme for Trusts handles all clinical negligence claims against member NHS bodies where the incident in question took place on or after 1 April 1995 (or when the body joined the scheme, if that is later). It covers loss or injury arising from Trust negligence in diagnosis and treatment.

b. Liability to Third Parties Scheme (LTPS)

The Liabilities to Third Parties Scheme (LTPS) was established in April 1999, and typically covers employers' and public liability claims from NHS staff, patients and members of the public. These range from straightforward slips and trips to serious workplace manual handling, bullying and stress claims. LTPS covers claims arising from breaches of the Human Rights Act, the Data Protection Act and the Defective Premises Act, as well as defamation and professional negligence claims.

The cover extends to personal liabilities of the members of NHS boards, including non-executive directors. The scheme is designed to meet the costs of defending or settling claims against individual Directors.

Personal injury cover is unlimited in value and there is no limit on the number of claims that can be made in any membership year.

NHSR does not provide Public Liability cover for a number of income generation activities which are provided to non-NHS organisations (although this exclusion does not apply to Directors and Officers liability for NHS Trusts).

c. Property Expenses Scheme (PES)

The Property Expenses Scheme covers "first party" losses for material damage to buildings and contents from a variety of causes, including fire, theft and water damage. PES also offers business interruption expense cover arising from property damage.

2.2 Commercial Insurance

a. Property Damage

This policy insures the Trust for loss of, or damage to, Trust property above the NHSR limit of £1m.

b. Contract works

This policy insures the Trust for loss of, or damage to, Trust contract works and associated materials and other property during the course of construction. Cover is arranged on the basis of refurbishment, extension or a new build contract, with an estimated turnover of £2,500,000 per contract.

c. Goods in Transit/Cargo

This policy insures the Trust for loss of, or damage to, Trust property "whilst in transit, loading/unloading, but not storage". The locations for transit are "community clinics in Liverpool, Huyton, Kirkby and Southport as well as patient's homes in these locations".

d. Business Travel

The policy insures any member of the Trust for trips related to the business of the Trust outside the UK. This also includes any additional days added by the insured person for personal reasons. Any trips to areas not recommended by the Foreign and Commonwealth Office will require additional insurance.

e. Directors and Officers Liability

This policy has been removed in relation to NHS relevant functions. The insurance broker advised that the cover previously provided has been reduced, and would no longer provide any cover to the entity. In addition, it has been confirmed that the NHSR policy covers the Corporate Legal Liability risk (The Entity) and past Directors and Officers, in addition to existing Directors and Officers. The charity is deemed outside of the relevant functions, and is not considered to be covered by the NHSR scheme. The cover for The Liverpool Heart and Chest Charity has been renewed.

f. Commercial Loss Recovery

This policy provides expert assistance from an independent loss adjuster to assist the trust in the preparation and negotiation of a property insurance claim, which exceeds £100,000.

g. Motor Fleet

This insurance is for the vehicles owned by the Trust.

2.3 Uninsured Risks

- a.** Clinical Trials – NHSR: CNST provides cover for the treatment risk of clinical trials, but LTPS contains a clinical trials exclusion, irrespective of whether the trial is NHS or non-NHS funded.
- b.** Business Interruption Cover (Loss of revenue and/or increased costs of working). Under NHSR: PES cover is provided to a £1m limit. Insurance for a higher limit could be obtained, but is not currently covered.
- c.** Terrorism – Under NHSR: PES cover is provided to a £1m limit.
- d.** Other non-NHS income generation – the most significant non-NHS income relates to the private patient service. NHS bodies are not responsible for a health care professional's private practice, even in an NHS hospital. However, where junior medical staff, nurses or members of professions supplementary to medicine are involved in the care of private patients in NHS hospitals, they would normally be doing so as part of their NHS contract, and would therefore be covered by the NHSR scheme. It remains advisable that health professionals who might be involved in work outside the scope of his or her NHS employment should have professional liability cover.

3. Summary of Trust insurance arrangements

Policy Type	Insurer	Excess per claim	Indemnity Limit	Premium 21/22
Clinical Negligence	NHS-R	Nil	Unlimited	£ 1,155,790
LTPS	NHS-R		Unlimited	£ 85,552
Employers Liability		£ 10,000		
Public and Products Liability		£ 3,000		
Pollution		£ 10,000		
Directors and Officers		TBC		
Professional Indemnity		£ 3,000		
Personal Accident		Nil		
PES	NHS-R	£20,000	£1,000,000	£ 23,288
Goods in Transit			£100,000	
Fidelity Guarantee			£250,000	
NHS Resolution sub-total				£ 1,264,630

Policy Type	Insurer	Excess per claim	Indemnity Limit	Premium 21/22
Property Damage	Allianz	£ 1,000,000		£ 31,109
- Buildings				
- Temporary Buildings				
- Machinery, plant				
- Stock				
- Computer Equipment				
Contract Works	Allianz	£1,000		£ 13,646
Goods in Transit	Lloyds	Nil		£ 896
Business Travel	Chubb European			£ 641
Directors' and Officers' Liability (Charity)	Dual			£ 2,240
Commercial Loss	Lorega	£5,000		£ 836
Service Fee	Griffiths & Armour			£ 6,500
Non NHS Resolution Sub-total				£ 55,869
Fleet (Van)	QBE			£ 914
Total				£ 1,321,413

4. Conclusion

The paper sets out the insurance arrangements that the Trust has in place. The commercial insurance procured has been amended in relation to the Directors and Officers cover. This is because the limit covered decreased and the insurance provider was no longer willing to cover the entity. The cover provided by membership in the NHSR schemes provides cover for Directors and Officers, including entity cover and past directors.

5. Recommendation

The Board of Directors is asked to:

- Note the insurance arrangements in place
- Approve the change to the Directors and Officers cover