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ANNEX 4.5 INSURANCE

Central government organisations should not generally take out commercial insurance because it is better value for money for the taxpayer to cover its own risks. However, there are some circumstances where commercial insurance is appropriate. This annex sets out the issues to be considered. This guidance applies to departments and their arms-length bodies.

A.4.5.1 Central government organisations should not normally buy commercial insurance to protect against risk. Since the government can pool and spread its own risks, there is little need to pay the private sector to provide this service. In general it is cheaper for the government to cover its own risks.

A.4.5.2 However, in certain circumstances, as part of forming a risk management strategy, the Accounting Officer in a public sector organisation may choose to purchase commercial insurance to protect certain parts of the organisation's portfolio. Such decisions should always be made after cost benefit analysis in order to secure value for money. Some acceptable reasons for using insurance are set out in box A.4.5A.

box A.4.5A where commercial insurance may be justified

- **Building insurance as a condition of the lease** and where the lessor will not accept an indemnity: commercial insurance may be taken out where the cost of accommodation, together with the cost of insurance, is more cost effective than other accommodation options.
- **Overall site insurance:** private sector contractors and developers usually take out a single-site insurance policy because it is cheaper than each individual party insuring themselves separately. So a client organisation may be able to cover its risks at little or no extra cost.
- **Insurance of boilers and lifts:** which may be a condition of taking out the lease, and typically involves periodic expert inspection designed to reduce the risk of loss or damage.
- **Wider markets initiatives:** because these activities are outside the government's core responsibilities, losses on a department's discretionary commercial activities could reduce resources available for its core activities (see chapter 7). It will usually therefore make sense to insure them. Any goods used for services sold to other parts of central government should not, however, be insured.
- **Where commercial insurance is integral to a project:** eg, where private contractors insist, it may be appropriate to purchase insurance even if the net benefit is negative. But this may be a sign that the project needs restructuring to avoid any requirement to buy commercial insurance, perhaps through letters of comfort or statements of support. The costs and benefits of taking out insurance should be included in the appraisal of the project as a whole.

A.4.5.3 Some NDPBs may be in a slightly different position to central government departments. Box A.4.5B gives examples of some items they may choose to insure commercially.

box A.4.5B items NDPBs may insure

- items the NDPB is required to insure, eg vehicles where the Road Traffic Acts require it.
- goods where a cost benefit analysis supports the case for insurance and the sponsor department agrees.
- goods owned by NDPBs receiving less than 50% of their income from the Exchequer (through grant-in-aid or fees and charges). Commercial insurance protects the risk to the Exchequer from claims from third parties.
- items used by an NDPB for income generation schemes to supplement the approved level of public spending. Commercial insurance is appropriate to cover the risks lest costs or losses could not be met out of receipts.

Appraising the options

A4.5.4 Decisions on whether to buy insurance should be based on objective cost-benefit analysis, using guidance in the *Green Book* (www.hm-treasury.gov.uk/Economic_Data_and_Tools/greenbook/data_greenbook_index.cfm). Box A.4.5C outlines some factors which are often worth considering in such assessments.

box A.4.5C costs and benefits which could be included in assessments**Costs:**

- the insurance premium which may be paid
- the administrative cost of managing claims with the insurance company

Benefits:

- transfer of risk, valued at the expected compensation for the insured losses
- claims handling, where the insurance company will manage claims against third parties
- the value of guaranteed business recovery: the potential reduction in the time taken to reinstate losses, reducing business interruption

Setting fees and charges

A4.5.5 If a central government organisation insures risks arising in supplying a service for which a fee or charge is levied, the actual premium payments should be included in the calculation of costs when deciding the fee or charge. Similarly, where a central government organisation self-insures, the notional cost of premium payments should be taken into account. See Chapter 6.2 for further details.

Claims administration

A4.5.6 Managing claims against third parties can be time-consuming and require expert attention. Insurance companies may be better placed than public sector organisations to deal with claims economically and efficiently. So contracting-out claims administration to an insurance company might be more cost-effective than retaining the work in-house.

Reporting

A4.5.7 Departments should inform their Treasury spending team of:

- any decision to use the services of commercial insurance companies
- any reviews of insurance, or alternatives to insurance, that might contain lessons of wider application .

A4.5.8 In turn arm's length bodies should consult their sponsor departments in similar circumstances.

Dealing with losses

Uninsured losses (except traffic accidents)

A4.5.9 Where a loss occurs or a third-party claim is received, public sector organisations should initially consider whether the loss should be made good or the claim accepted. Thus:

- **loss of or damage to assets:** the question of repair or replacement should always be carefully considered, taking account of the need for the asset and current policies. This decision is, in effect, a new investment decision and should be appraised accordingly.
- **third-party claims:** the justification for the claim should be carefully considered with appropriate legal advice.

A4.5.10 If the organisation decides to repair or replace an asset, or meet a third party claim, it should normally expect to meet the cost from within its existing allocations. The Treasury does not routinely entertain bids for additional resources in such cases. If a bid did arise the Treasury would consider it on its merits and in the light of the resources available, in the same way as other bids for increases in provision. Similarly, arm's length bodies should not normally expect their sponsor departments to meet claims for reimbursement of loss.

Insured losses

A4.5.11 Public sector organisations should make insurance claims in accordance with the terms of the policy.

A4.5.12 Arm's length bodies may retain amounts paid under commercial insurance policies to meet expenditure resulting from losses or third-party claims. If it is decided not to replace or to repair an insured asset, the sponsor department may reduce any grant in aid payable to the ALB.

Claims between public sector organisations

A4.5.13 If two uninsured departments are involved in an incident causing loss to one or other, it is immaterial to the Exchequer whether one claims on the other for the damage. To avoid the cost involved in preparing and settling small claims the rule is not to make interdepartmental adjustments in the case of damage to fixed or movable property where the damage is less than £10,000 in value in any one case. Similar waiver arrangements should apply up to mutually agreed limits between other public sector organisations. But waiver arrangements of this kind are not appropriate where there are rights of claim against third parties.

A4.5.14 Box A.4.5D shows how to proceed when one central government organisation makes a larger claim against one or more others.

box A.4.5D handling claims between public sector organisations

insurance status	settlement of claims
All insured	Insurers settle claims
All uninsured	Organisation(s) at fault negotiate about whether to reimburse the other(s)
Organisation at fault uninsured, other organisation(s) insured	Insured organisation claims on its insurance policy. Uninsured organisation(s) deal with claims from the insurers on the basis of strict legal liability
Organisation at fault insured, other organisation(s) uninsured	Uninsured organisation(s) seek financial satisfaction through the insurers of the organisation(s) at fault

Vehicles

A4.5.15 Most NDPBs insure third-party vehicle claims to comply with the Road Traffic Acts. Public sector organisations that are not insured for traffic accidents should refer any third-party claims, either for or against, to the Treasury Solicitor who acts on behalf of the government.

A4.5.16 Many claims between public sector organisations involving damage to, or loss caused by, vehicles, can be handled using the arrangements in paragraph A.4.5.13.

A4.5.17 Vehicles travelling in other EU countries must comply with Directives. These require vehicles of a member state operating in another's territory to be covered by insurance to the extent required by the legislation in territory of the journey, unless there are acceptable alternative arrangements, eg indemnities.

Loans

A4.5.18 When government assets are loaned to a body other than a public sector organisation which does not insure, it is important to protect the interests of the lending organisation. So the borrower should insure against damage or loss of the assets from the time of receipt and against claims by third parties including its own employees. An indemnity by the borrowers is an acceptable substitute if the lender is satisfied that the borrower could and would meet any damage or other loss.

A.4.5.19 Public sector organisations are usually expected to meet the cost of insuring any government assets (eg. equipment or stores) held by a contractor in the normal course of business. The cost of any insurance against risks arising from negligence or wilful misconduct by the contractor's employees should be borne by the contractor. These arrangements should be explicitly set out in the relevant contract.

A.4.5.20 Public sector organisations which borrow objects of value from a non-government body should normally offer the owner an indemnity against damage or loss. Such indemnities should leave no doubt as to the extent and duration of the borrowing organisation's liability. And they may need to be reported if they fall within the Parliamentary reporting requirements (see annex 5.2).

A.4.5.21 Borrowers should only take out commercial insurance for loaned items of value if the owner insists upon it, or if the borrower has reason to believe that commercial insurance would be more cost effective than giving an indemnity.

Employers' liability

A.4.5.22 The Crown is not bound by the Employers' Liability (Compulsory Insurance) Act 1969. So departments need not insure the risks outlined in the Act. Decisions on whether to insure should be taken on value for money grounds after an appraisal.

A.4.5.23 Similarly, a body funded by grant in aid need not insure against employers' liability risks. This is because the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI 1998/2573) provide exemption for any body (or person who may be an employer) holding a certificate issued by a government department. Again, the decision on whether to insure will depend on a value for money assessment. If the organisation chooses not to insure, responsibility for the issue of certificates in accordance with the Act rests with the department responsible for paying grant in aid, provided that it is satisfied that this is the appropriate course.

A.4.5.24 The scope of the certificate should be strictly confined to the risks with which the Employers' Liability (Compulsory Insurance) Act 1969 is concerned, and may not be extended to any other risks. It should be in the form set out in Box A.4.5E below. Departments should ensure that the circumstances in which certificates have been issued are reviewed from time to time, so that certificates may be revoked if circumstances change.

box A.4.5E form of exemption certificate

In accordance with the provisions of paragraph 1 of Schedule 2 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI 1998/2573), the Minister of/Secretary of State for..... hereby certifies that any claim established against [here specify the body or person] in respect of any liability to [here specify the employees involved] of the kind mentioned in section 1(1) of the Employers' Liability (Compulsory Insurance) Act 1969 will, to any extent to which it is otherwise incapable of being satisfied by the aforementioned employer, be satisfied out of moneys provided by Parliament.