

MARSH PROJECT RISK INSIGHTS: STUDENT ACCOMMODATION PROJECTS – TAKING AN OWNER-CONTROLLED INSURANCE PROGRAMME APPROACH



Even with increases in tuition fees, the number of university applicants has reached a record level as demand for higher education courses continues to rise. As a result, many universities are seeking to attract students by expanding and improving their campus infrastructure, in particular residential accommodation, which can be offered to potential students.

Any large capital expenditure project will always require careful consideration to ensure that the insurance solution chosen provides sufficient protection for all project stakeholders during both the construction and lifecycle of the development. Most standard UK contract forms provide options as to which party should be responsible to effect and maintain the required insurances, but it should always be borne in mind that the costs of such insurances will always be paid by the university regardless.

Historically, the default position in these scenarios is the university requires the main building contractor to insure the works until completion and handover, including any associated liabilities.

In such cases, the main building contractor will typically use its own annual insurance arrangements, or will seek to pass the risk and insurance obligations down through its supply chain to its sub-contractors. However, this approach can leave the university vulnerable in the event of contractor liquidation or a delay in completion. It is not uncommon for parties in a contract to be unaware or uncertain about their insurance responsibilities, and this can be exacerbated when contract conditions are amended by advisors who do not consult specialist insurance brokers.

The resulting contract position and insurance programme holds the potential for gaps in insurance coverage, with the potential for limited protection or recourse for the procuring university. Disagreements can therefore arise between the contracting parties regarding responsibility should an uninsured loss occur, which may cause delays in project completion and a financial risk for both the university and/or the main building contractor.

Increasingly, universities are looking to increase their residential accommodation by using an outsource/hire-back contract model, which is similar to private finance initiative (PFI)/ public-private partnership (PPP) contractual structures. Where this approach is being used, it is critical, given the long-term undertakings, to have a clear understanding of risk and responsibilities throughout the project lifecycle.

Within this newsletter, we explore the advantages and suitability of investigating an owner-controlled insurance programme (OCIP) for student accommodation projects.

OCIP SOLUTION

In its simplest form, an OCIP is an arrangement whereby the party who is responsible for procuring the project insurances, such as the university or the main building contractor, takes direct control of the arrangement and purchase of certain insurances in connection with the construction project. An OCIP is a bespoke all-party cover, which deals with many of the risk issues mentioned earlier. Taking control of the insurances can mitigate many of these risk factors and allow you to insure against risks not catered for within contractors' or sub-contractors' corporate programmes, such as delay in completion.

Cost is often one of the reasons given for not following an OCIP approach, but our experience has shown that it is not necessarily the most expensive option. Indeed, an OCIP approach could help to differentiate a tender given its enhanced risk and insurance protections, and can be considered a good risk management tool for a university to adopt. It is important to discuss and review the added value an OCIP brings early in the process.

- **Control** – The cover purchased can fit your individual project requirements and the insurers used would be acceptable to you. There is no need for the university to rely on contractors to renew their own policies on an annual basis, and so there is no risk associated with cover not being maintained. An OCIP arrangement is not affected by the insolvency of a project partner, and, equally, there is no need to rely on the legacy of the building contractor's annual insurance arrangements. In addition, there is no need to check that sub-contractors' annual policies are being maintained.
- **Cost** – Contractors' "all risks" is typically the most expensive insurance on any construction project. Our experience demonstrates that an OCIP can produce meaningful cost savings when compared to premiums put forward by contractors for use of their annual insurance arrangements. An OCIP would also attract "one" premium payment for the entire build and maintenance period, which would be a fixed insurance cost at the outset. Any claim or loss incurred will not result in additional premiums or future rate increases for the project.
- **Cover** – An OCIP policy can be tailored to provide cover for project-specific contract obligations, and can include all contractors, sub-contractors, and any project stakeholders as insured parties. Having one policy in place avoids any gaps or overlaps in cover, and can be tailored to include completed works, which are generally not covered by contractors where there is post-sectional completion. Cover is designed to be wider than that which is typically available under a standard contractor's annual policy; for example, it can accommodate waivers of subrogation in favour of other insured parties if this is required contractually.
- **Certainty** – An OCIP policy allows project parties to cover specific risks, such as additional costs caused by delay following a loss under the contractors' "all risks" insurance, the costs incurred in hiring alternative premises, and/or loss of rental income from student accommodation which is unavailable. An OCIP policy is non-cancellable and therefore in force for the duration of the works and would remain in force, covering any partially completed works, even in the event of contractor default, such that the contractor is no longer occupying the contract site.
- **Claims** – Each insured party is able to make a claim under the OCIP policy in its own right, with claims monies being paid direct to the claimant. The policy limits cannot be eroded by claims made which are unrelated to the project, which might be the case where a contractor's annual insurance arrangements are relied upon.



The following table outlines some of the features and benefits of an OCIP policy for the party responsible for arranging the insurance:

COMMERCIAL	FINANCIAL	CLAIMS
Policy can be tailored to cover all appropriate contract parties, as opposed to several potentially disjointed insurance arrangements.	Cover can be provided for consequential loss in the event of a delay in completion, such as loss of anticipated rent and/or the cost of alternative accommodation.	All project stakeholders can enjoy the benefit of being an insured party with a full waiver of subrogation being in place (excluding fraud/deliberate acts).
The policy is adaptable to changes in the project, such as increased values and extensions to the policy period which may incur an additional cost.	Streamlines project administration in that there is no need to check contractors' or sub-contractors' annual insurance arrangements.	Helps to promote a "no blame" culture and can eliminate claims being made between contracting parties.
Non-cancellable policy for the duration of the project.	Known and fixed insurance cost at the outset.	All insured parties can have direct access to insurers for claims-related matters.
Helps to eliminate any unknown risk exposures when relying on insurance provided by contractor or sub-contractors.	Achieves benefit of bulk purchase in terms of premium cost, coverage, and reduced administration costs.	Helps to eliminate legal and contractual disputes between parties.
No uninsured contracts or coverage loopholes.	Project principals retain control of insurer selection, which is important for long-term projects.	Claims monies paid direct.
Protects all insured parties for their liabilities associated with the project.	Certainty that premium is paid and insurance is current.	
Streamlined interface between construction and completed works, which allows for effective management of phased handovers.	Avoids gaps and overlaps in cover and can save premium costs for the project.	
Facilitates purchase of cover for existing structures and delay in start-up coverage.	The policy cover is unaffected by the insolvency of a project partner or removal of a contractor/sub-contractor from the project.	
Facilitates a uniform and disciplined approach to risk management.		

APPROACH – HOW MARSH CAN HELP

Our experienced project risk team specialises in providing insurance and risk management advice and solutions for complex project procurements, including projects delivered in a partnership between public and private sectors. We are a leading risk and insurance advisor in the education sector and understand that the risks inherent in these projects can be challenging and have far-reaching consequences for stakeholders. The Marsh team has a wealth of experience across the education and accommodation sectors, and below is a sample of the some wider risk issues to consider:

- **Business continuity** – Detailed provisions for providing alternative accommodation facilities will be required, incorporating both short- and long-term options.
- **Retained estates** – Responsibility for latent defects, asbestos, and other associated retained estate risk issues should be allocated appropriately within the project documents.
- **Term** – Where project completion dates are close to the start of the academic term, any minor delays in completion can have a disproportionate impact on the project. The project documents and insurance requirements will need to be tailored accordingly.

- **Third-party exposures** – Where the development is sited on an existing operational campus, the level of liability insurance needs to reflect the concentration of occupants, staff, and visitors, and also reflect the potential damage to nearby existing property during the construction period.

Our experienced team would work with you to provide, where necessary:

- A risk review to assist in establishing a project-wide risk management strategy, including supply chain and allocation of risk to sub-contractors.
- Assistance with the negotiation and execution of a comprehensive contractual review.
- Comprehensive insurance programme design for the project.
- Fully developed and insurance market supported premium costs for the project.

We recognise that each project attracts its own particular risk issues, and we work with our clients to identify and resolve these on a bespoke basis. Our construction practice has placed more than 180 OCIP policies in this sector in the last three years by developing a tailored policy wording which provides the widest available policy coverage.

VALUE-ADDED SERVICES, SOLUTIONS, AND RISK ADVICE

Our range of bespoke optional services includes:

- Advice and placement for restrictive covenant indemnities and/or defective title issues associated with project sites.
- Fire and design risk assessments.
- Insurance and contractual advice for latent defects.
- Environmental insurance.
- Business continuity and crisis management planning.

ABOUT MARSH'S PROJECT RISK TEAM

Our project risk team specialises in providing insurance and risk management advice and solutions for complex project procurements; applying a highly-structured approach to the identification, evaluation, allocation, and management of project risk issues.

We have a wealth of experience across the key project sectors, including accommodation, bluelight, custodial, energy, defence, education, health, housing, leisure, roads, transportation, utilities, and waste.

Our experienced team works extensively with clients and their advisers to design and implement solutions (including portfolio insurance procurement) to protect stakeholders and their financial investments, understanding the divergent risk tolerance and particular issues of the public sector, equity investors, lenders, and the construction sector.

ABOUT MARSH'S GLOBAL INFRASTRUCTURE PRACTICE

Marsh's extensive global infrastructure expertise supports clients' interests throughout the negotiation and execution of contractual structure, design and build, operations, maintenance, and refurbishment. All this is in the context of construction projects, secondary purchase and sale of assets, public and/or private financing, or related capital raising. Marsh has a proven track record in the global infrastructure sector, with specialist resources worldwide. This expertise has been recognised through multiple industry awards.

CONTACT US

For further information about how Marsh's Project Risk team can help you, please contact your local office:

LONDON

MARTIN BENNETT
martin.bennett@marsh.com
+44 (0)20 7357 2195

JANICE ORAM
janice.oram@marsh.com
+44 (0)117 906 5308

CHRISTOPHE PUN SIN
chris.punsin@marsh.com
+44 (0)20 7357 3314

MANCHESTER

MATTHEW GILLIONS
matthew.gillions@marsh.com
+44 (0)161 954 7455

READING

DEAN COWLING
dean.cowling@marsh.com
+44 (0)118 965 4284

EDINBURGH

KAREN O'DONNELL
karen.x.odonnell@marsh.com
+44 (0)131 311 4277



Global Infrastructure
Insurance House
of The Year



Global insurance firm
of the year



The information contained herein is based on sources we believe reliable and should be understood to be general risk management and insurance information only. The information is not intended to be taken as advice with respect to any individual situation and cannot be relied upon as such.

Marsh Ltd is authorised and regulated by the Financial Conduct Authority.

Copyright © 2015 Marsh Ltd All rights reserved

GRAPHICS NO. 15-0581