



**Audit and Risk Management Committee**  
**Monday, 13 June 2016**

<b>REPORT TITLE:</b>	<b>INSURANCE FUND ANNUAL REPORT</b>
<b>REPORT OF:</b>	<b>Head of Financial Services</b>

**REPORT SUMMARY**

This report provides a review of Risk and Insurance activity during 2015/16 and the plans for 2016/17 and beyond. It details the underwriting arrangements and recent loss histories for the principal areas of insured risk and describes the impact of measures taken to improve their management. The provisions and reserves within the Insurance Fund at the end of 2015/16 are confirmed.

**RECOMMENDATION/S**

1. That Members endorse the release of monies from the Insurance Fund to the General Fund indicated in paragraph 3.45
2. That the Insurance Fund Budget 2017/18 be prepared for presentation to this committee in January 2017

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 To maintain appropriate financial reserves.
- 1.2 The Insurance Fund Budget forms part of the Council budget-setting process.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The operating and budget surpluses could have been retained within the Insurance Fund. However this would have presented a lost opportunity to support General Fund balances.

### **3.0 BACKGROUND INFORMATION**

#### **Approach to Risk Financing**

- 3.1 Since 1988 the Authority has used a combination of self-insurance and external insurance to address the financial consequences of risk.
- 3.2 Those risks which have the potential to generate substantial losses are self-insured to a high level but with a cap on the Council's liability above which costs are met by insurers. Such risks include legal liability to members of the public and to other organisations for injury or damage to property motor accidents involving Council vehicles and damage to Council buildings.
- 3.3 Other more minor, expected, losses such as damage to equipment and plate glass are wholly self-insured.
- 3.4 The self-funding of losses is part of the Council's overall approach to managing risk. It provides a greater incentive to deal with risk more effectively given that any reduction in claims directly benefits the Authority. It also minimises the Council's liability for Insurance Premium Tax (currently levied at 9.5%) and contributions to insurers' administrative costs and profit margins. The level of self-insurance is influenced by the need to maintain the stability of the Insurance Fund over the long term and by the Council's appetite for risk. However as a point of principle the Council is seeking to cover more low value insurable risks through the Insurance Fund to leverage greater value from the Fund.
- 3.5 Claims are met from the Insurance Fund with the Fund being maintained through proportionate annual contributions from all directorates and from schools.

- 3.6 The Fund also holds reserves which are available to support the implementation of initiatives to improve the management of risks both insured and uninsured.

### **Principal Areas of Insured Risk - Liability**

- 3.7 The Council currently self-insures liability risks to a maximum aggregate of £3.598m for all claims occurring in any one policy year. The level of aggregate varies from year to year according to market conditions and loss history. It has been as high as £7.25m in 2005/06. In addition the Council's maximum liability for any single insured claim is currently limited to £250,000. Any costs above this are met by the insurer Zurich Municipal. The current Long Term Agreement on this contract expires on 31 March 2017.
- 3.8 As reported previously to Members the Council is currently trialling the self-handling of self-represented (no solicitor involvement) Liability claims involving low value property damage. Prior to this the administration of all such claims was undertaken by insurers. This is a growing proportion of the claims portfolio and whilst the 2015/16 pilot will deliver savings of around £17,500 in contract costs, the potential exists for expanding the in house handling criteria to provide further savings in future years.
- 3.9 A large proportion of claims are still administered by Zurich Municipal. However the company has no authority to settle claims within the deductible limits. All decisions on tactics, settlement and quantum on claims up to £250,000 are controlled by the risk and insurance function within the Council. This ensures that decisions are made in the best interests of the authority rather than the insurers and that a stable claims strategy can be maintained. As the insurers have no financial interest in claims below the deductible they may have little motivation to secure the most efficient outcomes. On the rare matters that have the potential to exceed £250,000 the Council works in partnership with the insurers to agree mutually acceptable outcomes. Both Zurich Municipal and the solicitors engaged to defend legal proceedings work to defined service level agreements and the Council continuously monitors and manages their performance.
- 3.10 It is of note that the per-claim self-insured retention on liability has remained stable at £250,000 for over 15 years. In this period the real terms value of this deductible has been eroded by the effect of inflation. Officers will consider the relative merits of increasing this limit as part of the remarketing of the Liability insurance contract later this financial year.

### **Changes in the Civil Justice Regime**

- 3.11 Behaviours within the claims environment have continued to evolve following the changes in claims regulation reported in some detail within the 2015/16 version of this report. Claimant solicitors continue to push at the boundaries to test the system as they attempt to maximise their costs income. However, the reduction in average legal costs on fast track matters appears to be sustained. Following many years of unhelpful stagnation in regulation, dynamism appears to be the new norm with further significant changes to the track limits being

proposed within the government's plans for the current parliamentary term. Whilst many industry commentators feel that the dust should be allowed to settle prior to further changes, the latest proposed changes do have the potential to further reduce the average cost per claim for the Council. It is likely that Wirral will again be playing a lead national role in this latest consultation.

### **Public Liability Claims Statistics**

3.12 The rate of receipt of new Public Liability (PL) claims has continued a downward trajectory. During 2015/16 a total of 363 new claims were received. This was a 7% reduction over 14/15 and a cumulative 27% fall over 5 years. The reduction of volume over the last few years will be partially attributable to the outsourcing of services, the community asset transfer program and the change to Academy status of many of the larger secondary schools. Whilst the majority of claims continue to relate to simple highway slips and trips a proportion are significantly more complex involving abuse, defamation, bullying and harassment, failure to educate, disease, tree related subsidence, nuisance and social services matters for both failure to remove and / or inappropriate removal. Table 1 below shows the rate of receipt of Public Liability claims over the last 5 years.

**Table 1:** Claims received – Public Liability

	<b>Number of new Public Liability Claims Received within year</b>				
	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>
Highway Claims	423	435	373	319	324
Other	75	55	72	71	39
Total Claims	498	490	445	390	363
Year on Year	N/A	- 2%	- 9%	- 12%	- 7%

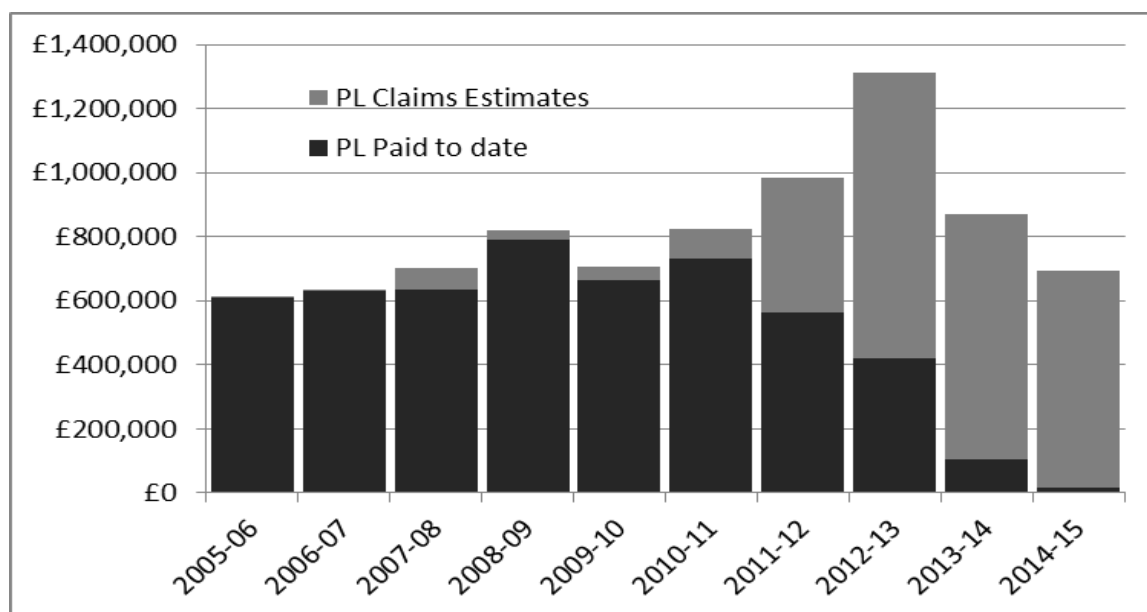
3.13 Whilst good risk management activity can affect the outcome of PL claims, by providing a defence, the frequency of receipt is influenced by factors over which the Council has little control. Dominant influences will include the incidence of severe weather, claims farming activity and the prevailing propensity to claim within the community. It will be noted that the winter of 2015/16 was again relatively mild and this is likely to have contributed to the fall in highway claims receipt.

3.14 This “claims received” table data describes the level of claims management activity required within the given periods. It is not necessarily reflective of the impact on individual account years as a claim could be received many years

after the incident. Whilst this delayed receipt issue is more of an issue on Employers liability matters, as will be shown, it should be noted.

- 3.15 Chart 1 below indicates the expected final costs of known public liability claims occurring over a 10 year period. The yearly totals are split between amounts paid and reserves for claims outstanding. The chart does not incorporate any element of the necessary funding for claims incurred but not yet received. The higher reserved costs for recently submitted claims are accounted for by our obligation to reserve each individual new claim on a full liability basis until investigations indicate that a defence is available. Provided that the excellent repudiation rate experienced in recent years can be maintained, it is expected that the ultimate cost of these latest claims will revert to the standard Public Liability settlement pattern of less than £1m per year. The recent civil justice developments have however increased the level of uncertainty in this prediction. The obvious anomaly showing within the data for 2013 demonstrates 2 unconnected larger claims. The frequency of large claims on this account, in comparison with our peers, continues to be remarkably low.

**Chart 1:** Cost of Public Liability claims by date of incident.



- 3.16 Table 1 is based on the date that the claim was received to indicate the rate of receipt of claims, whereas within Chart 1 the date of accident has been used to show payments and reserves as per policy years. This data does not therefore directly correspond. It was considered that this varying format best illustrated the account performance but if Members require claims data in any other format it can be provided.
- 3.17 Individual claims can take many years to settle. A portfolio of over 400 open public liability files with a potential combined value circa £3m is currently being managed.

## Employers Liability Claims Statistics

3.18 Following a welcome fall in 2014/15, the number of Employers Liability (EL) claims received in 2015/16 slightly reduced again to a total of 35. Although the frequency is down from the peak, the figure remains high in comparison with the long term average and particularly when viewed alongside the reducing headcount. In recent years much of the EL claims growth has resulted from vibration and noise related claims from Parks employees that are very difficult to defend. The trend of increasing frequency of historic disease claims is repeated throughout the public sector and industry generally. The alleged causes of the new claims are noted within table 2 below.

**Table 2:** Claims Received – Employers Liability

<b>New Employers Liability Claims Reported by Date with Alleged Cause</b>					
	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>
Vibration	17	6	7	6	6
Noise (NIHL)	16	6	15	5	11
Asbestos	1	0	1	0	2
Slip / trip / trap / fall	11	11	18	12	5
Others including assault / stress and harassment	20	22	9	13	11
Total for year	65	55	50	36	35

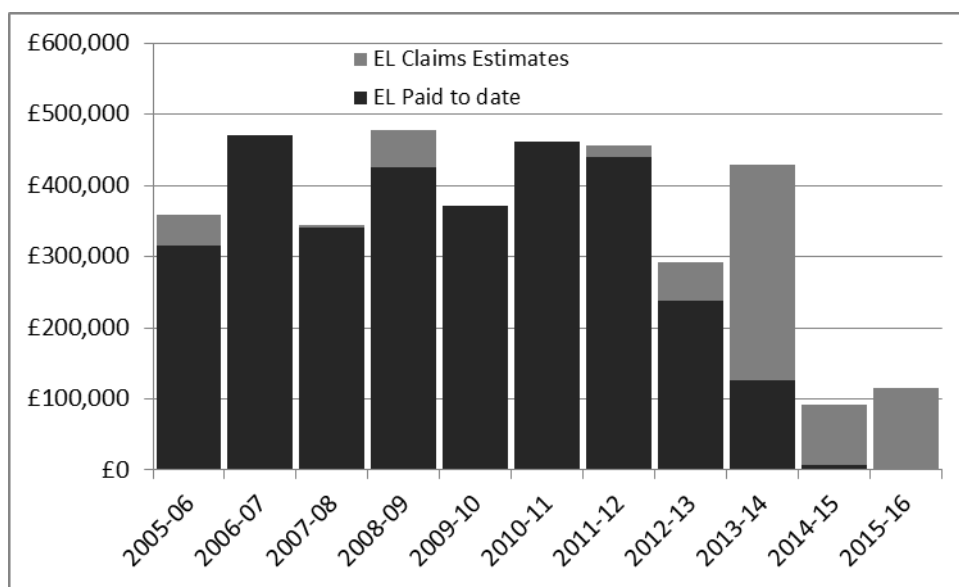
Note that figures within this table will differ slightly from reports extracted from claims database due to the impact of historic matters (predating 1981) that are recorded elsewhere. These historic exposure matters added a total of 5 claims to the 2015/16 figures.

3.19 Employers liability claims generally take much longer than public liability claims to be reported, investigated and, if necessary settled. The Council is still receiving claims with alleged exposure periods as far back as the 1950's and 1960's for matters such as Noise Induced Hearing Loss and cancers relating to asbestos exposure.

3.20 Given the long exposure periods of disease claims a separate claim needs to be registered against each policy period covered by the exposure. This results in claims payments being distributed across multiple insurers with associated complexity due to the varying aggregate and deductible positions across these policies. Some insurers insist that a separate claim is recorded for each year within a long term policy period. With some alleged exposures spanning a 40 year employment period this can create extensive administration work. Whilst

Wirral has comparatively good records of historic insurances and can trace all insurers for most claims, we do have uninsured periods due to insurer insolvency (Independent Insurance 1981–1984 and earlier MMI exposures for both Bebington Corporation and Birkenhead) and exposure to some employment prior to 1950 for which no insurer details can be traced.

3.21 The overall reserve for known EL claims was £854,050 at 31/03/16 across 75 current live files (excludes multiple registrations for account years). The distribution of estimates and payments amongst the more recent policy years is shown within chart 2.



3.22 The level of complexity within individual EL cases continues to increase. It is also generally becoming more difficult to track down essential witnesses and documents. A lack of documentation for historic cases is expected. However the ongoing reorganisation and contraction within services can often make the location of evidence and witnesses for even recent incidents difficult. The Council's ability to defend Employers' liability claims is regularly impacted by this position.

3.23 The management of Liability claims continues to occupy a substantial amount of the risk and insurance resource. Amongst the new cases in 2015/16 were many complex and technically demanding claims. Whilst the Council continues to retain a good record in defending such cases this success requires an ongoing investment of time and expertise.

3.24 The account continues to generally perform well. The defence rates are high in most areas of exposure. The Highways claims statistics in particular continue at peer leading levels. The 'firm but fair' stance on liability and the counter-claims fraud strategy contribute to this outcome. The performance of claims handling and legal services providers and the continuing active involvement of experienced officers controlling of tactics and procedure all assist in containing the overall cost to the Council of this area of risk.

- 3.25 The Council has established, and maintains, a reputation within the market as a leading authority on liability claims matters. This reputation will pay dividends in the upcoming exercise to remarket the casualty exposures.

### **Property and Business Interruption**

- 3.26 The Council self-insures to a maximum of £500,000 damage to property through fire and to a maximum of £1m for damage to commercial properties and to schools through storm flood and escape of water. It also has a maximum liability of £500,000 for business continuity losses through fire and £1m through storm and flood. Any costs above this are met by the insurer Zurich Municipal. I have taken up the option to extend these contracts by two years to 29 June 2018.
- 3.27 Although all property losses are reported to insurers minor claims are investigated and administered directly by the Council. A loss adjuster would be appointed to investigate and report to insurers on larger losses (those estimated to cost in the region of £30,000 or more). However the authority would still have a significant role in managing any necessary reinstatement process and ensuring the optimum settlement is achieved from the insurer.
- 3.28 The table below shows the number and cost of claims in the last 5 policy years.

<b>Year</b>	<b>Number</b>	<b>Paid to Date</b>	<b>Outstanding</b>	<b>Total</b>
2011/12	11	£ 27,974	£ 0	£ 27,974
2012/13	16	£ 31,508	£ 0	£ 31,508
2013/14	17	£ 30,529	£ 0	£ 30,529
2014/15	13	£ 57,602	£ 9,999	£ 67,601
2015/16 *	14	£ 81,433	£ 43,541	£124,974

\* Part year figures (as at 30 April 2016)

### **Motor**

- 3.29 The Council self-insures to a maximum £203,600 all claims relating to any one policy year. In addition its maximum liability for any single claim is limited to £75,000. Any costs above this are met by the insurer. The policy is subject to a Long Term Agreement until 31 March 2017 with an option to extend for a further 2 years.
- 3.30 The Risk and Insurance service is responsible for handling all claims for 'own damage'. Insurers administer third party claims but must refer to the Council any proposals to pay or reject claims. As with Liability claims the authority has input into all decisions on tactics and quantum and continuously monitors and manages the performance of the claims handlers.
- 3.31 The reduction in vehicle numbers has been partly responsible for a decrease in the volume and cost of claims in recent years. However better management of fleet risk is another factor. The authorisation to drive procedure, minibuses



assessment process and a more robust approach to the investigation of accidents and the service's management of claims are all elements of this approach.

3.32 The table below shows the number and cost of claims in the last 5 policy years.

Year	Number	Paid to Date	Outstanding	Total
2011/12	29	£18,305	£ 0	£ 18,305
2012/13	42	£91,963	£ 9,253	£101,216
2013/14	32	£48,719	£ 2,109	£ 50,828
2014/15	43	£32,297	£ 0	£ 32,297
2015/16	38	£31,660	£18,467	£ 50,127

### **Other Classes of Business**

3.33 Risks which present a more limited exposure to loss (such as damage to equipment and plate glass) are wholly self-insured. Responsibility for handling claims for these areas rests solely with the Risk & Insurance service. Others (such as Computer Fidelity Guarantee and Personal Accident) are partially underwritten by insurers. They are procured through competitive tender and subject to Long Term Agreements. The authority liaises with insurers over the small number of claims generated by these contracts.

3.34 In line with the principle of optimising the use of the Council's Insurance Fund risks associated with the loss of money and loss of or damage to marine craft will be insured through the Fund with effect from the expiry of the current external insurance contracts on 30 June 2016.

### **Review of Liability Reserves and Provisions**

3.35 Whilst it is important to ensure that the Insurance Fund holds sufficient resources to meet its liabilities there is also an opportunity cost to maintaining a greater balance than is needed.

3.36 To help ensure that the Fund is sufficient to meet the cost of liability claims but is not over resourced reviews are undertaken every three to four years by an external actuary who assesses the amount needed to fund anticipated liabilities for previous years. In the intervening years internal evaluations are undertaken for the same purpose.

3.37 Actuaries will generally not provide a specific defined figure for recommended funding levels. The advice contained within the output from their reports is usually heavily caveated and provided in a wide range for the scheme manager to consider funding levels based on the organisational risk appetite. These reports cost around £10,000 to commission and in periods of claims environment volatility, such as we are currently experiencing, they can be of limited value as they use historic trends to predict future funding requirements.

3.38 The output from the last external review to be commissioned was reported to this committee on 28 January 2014. As in 2014/15 a further detailed in house

evaluation of the sums required as at 31 March 2016 has been undertaken to inform this report. This internal fund review

- 3.39 The evaluation took as its starting point the figure recommended by the actuary as the provision required as at 31 March 2013. To this were added the liability funding figures for 2013/14 2014/15 and 2015/16. The value of all liability claims payments made during those years (including payments due under the Municipal Mutual Insurance (MMI) Scheme of Arrangement and payments made against the uninsured liability reserve) were then deducted. The figures have then been analysed by officers using actuarial technique and account knowledge. Officers are content that current funding levels are likely to lie within the upper range of certainty from an externally commissioned actuarial report.
- 3.40 This exercise indicated that a sum of £9,183,287 was required as at 31 March 2016 to meet outstanding liabilities as per the right hand column of the following table.

<b>Combined Liability</b>	<b>Position as at 01/04/2015 £</b>	<b>Calculated Requirement at 31/03/16 £</b>
<b>Provisions &lt; 1 year</b> (provision for known liability claims that is expected to be utilised entirely within 2016/17)	1,500,000	1,300,000
<b>Provisions &gt; 1 year</b> (provision for known liability claims where payment is expected to be made beyond the next year)	2,547,064	2,449,671
<b>Insured Liability Reserve</b> (reserve for insured claims incurred but not yet received, or claims received but insufficiently reserved)	3,208,546	4,003,424
<b>Uninsured Liability Reserve</b> (reserve to cover claims payments for periods of insurer insolvency or policy coverage deficiency)	1,000,000	1,000,000
<b>MMI reserve / provision</b> (reserve to cover claims payments for periods of insurer insolvency or policy coverage deficiency)	430,192	380,387

<b>Total liability reserves / provisions</b>	<b>8,685,802</b>	<b>9,133,482</b>
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3.41 The 'claw back' clause in the MMI Scheme of Arrangement was triggered by the company's administrators during 2012/13 and in 2013/14 the Council made an initial payment of £74,708 representing 15% of its historic liability. The trigger also meant that the Council faced contributing 15% to all future liability settlements attributable to the MMI period of insurance. In March this year the company announced that because of a continuing deterioration in its financial position a further payment of £49,805 representing another 10% of the Council's historic liability was required. This also means that the Council will now be responsible for 25% of all future liability settlements made on or after 1 April 2016. Although this leaves an open ended liability Wirral is considerably less affected by this development than other authorities and officers remain satisfied that current funding levels are adequate to manage the exposure.

### **Review of Other Reserves and Provisions**

3.42 As indicated above the Insurance Fund underwrites a number of other classes of business. It also holds sums in respect of uninsured liability risks and to pay for risk improvement measures. These figures are also reviewed each financial year. The table below compares the actual amounts held as at the end of March 2016 in respect of these elements of the Fund.

<b>Class</b>	<b>Position as at 01/04/15 £</b>	<b>Sum Held as at 31/03/16 £</b>	<b>Sum Required at 31/03/16 £</b>
<b>Property (IF020)</b>	2,500,000	2,500,000	2,500,000
<b>Motor (IF018)</b>	200,000	200,000	200,000
<b>Wholly self-insured claims</b> (such as plate glass and equipment) (IF051, IF103, IF104,)	171,998	173,648	173,648
<b>Fidelity Fund (IF105)</b>	12000	30,000	30,000
<b>Civil Contingency</b> (funds improvements in resilience to service disruption)	1,500,000	1,500,000	1,500,000

<b>Professional Indemnity</b> (funds excesses on Professional Indemnity claims any claims for uninsured services.)	50,000	50,000	50,000
<b>Risk Management</b> (supports individual risk improvement initiatives)	150,000	150,000	150,000
<b>Claims Management</b> (funds the legal costs of handling uninsured liability claims)	150,300	150,000	150,000
<b>Contaminated Land</b> (funds uninsured liability claims for environmental impairment)	750,000	750,000	750,000
<b>Budget Surplus / Deficit</b> (balance of Fund income v expenditure)	82,993	82,993	0
<b>Total</b>	<b>5,567,290</b>	<b>5,586,641</b>	<b>5,503,648</b>

- 3.43 The Budget Surplus Deficit reserve exists to help even out contributions to the Insurance Fund over different financial years. In particular where there is a risk that actual premiums could be greater than the estimate. However I am confident that costs for 2016/17 will be broadly in line with the estimate and that the credit balance in this reserve at the end of March 2016 was not required. As such that balance has been returned to General Fund balances in 2015/16.
- 3.44 The Risk and Insurance service also achieved an operating surplus of £268,947 for 2015/16. This figure is attained from the premiums taken into the Insurance Fund, combined with fee income derived from traded services and consultancy services, less the claims paid and necessary provision / reserve adjustments within the year. This surplus has also been returned to General Fund balances in 2015/16.

3.45 The closedown of the Insurance Fund accounts for 2015/16 and review / amendment of the reserves and provisions held within it therefore resulted in the following key actions.

- (i) **The release of the budget surplus of £82,993 to the General Fund.**
- (ii) **The release of the operating surplus of £268,947 to the General Fund**

3.46 The reserves and provisions within the Insurance Fund amount to a substantial sum. Whilst all are clearly earmarked for specific purposes Members may take the view that the Authority's financial position is such that further amounts should be recommended for release to support general balances. Any decision would depend on Members risk appetite as such a release could mean that the Fund had insufficient resources to meet its future liabilities.

### **Insurance and Risk Management 2015/16**

3.47 Throughout 2015/16 regular progress reports on Risk and Insurance Management were presented to this Committee.

#### Services for Schools

3.48 The insurance facility for Academy schools established in 2011/12 continued to prove very popular with schools which have taken the decision to convert. The authority assists schools with tendering to obtain competitive quotations for academy-specific insurance packages, critically appraises policy wordings verifies all policy documentation provides support with claims and general risk management advice. The service generated income of approximately £40,000 in 2015/16. This helped to offset the Council's own insurance administration costs.

3.49 Wirral has remained at the forefront of developments in the field of insurance for academies. The rapid increase in academy conversions envisaged in the recent Government white paper presents both threats and opportunities. For the risk and insurance service itself the change holds out the potential for increased fee income from individual academy clients and the service is looking to capitalise on this. However academies cannot be covered under the Council's corporate insurance arrangements. So as more schools convert the pool of contributors to the Insurance Fund will decrease. Over time this could reduce the authority's buying power and the degree to which it could of self-insure. This in turn could increase the cost of financing insurable risk.

#### Budget

3.50 The Insurance Fund Budget 2016/17 was approved by Audit & Risk Management Committee on 17 February 2016. The report confirmed that the cost to the General Fund would be £32,000 less than the Budget for 2015/16.

## **Insurance Management 2016/17 and beyond**

- 3.51 Regular reports on the progress of Insurance and Risk Management will continue to be presented to the Audit and Risk Management Committee.
- 3.52 The following table shows the key insurance / claims tasks for the year ahead and the target dates for completion.

<b>Task</b>	<b>Target Date</b>
Procure insurance broking and consultancy services	30 June 2016
Negotiate annual renewal of Property, Business Interruption, Museums, Marine Liability and Personal Accident / Business Travel policies	30 June 2016
Take decision on possible extensions of the Motor insurance and Engineering inspection contracts	30 September 2016
Compile the Insurance Fund Budget 2017/18	January 2017
Procurement of Casualty insurance policy (and Motor and Engineering contracts if not extended)	January 2017
Negotiate annual renewal of the Foster Care and Computer policies (and Motor and Engineering contracts if extended).	March 2017

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 Any remarketing exercise like those indicated in the table above creates uncertainty for the future cost of the contracts concerned.
- 4.2 As indicated in paragraph 3.45 a total of £351,940 has been released from the Insurance Fund to support General Fund balances.

### **5.0 LEGAL IMPLICATIONS**

- 5.1 There are none arising directly from this report.

### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

- 6.1 The remarketing of the Casualty insurance programme is the single largest insurance procurement exercise which the authority undertakes. Conducting it will take up a significant proportion of the capacity within the Risk and Insurance service.

### **7.0 RELEVANT RISKS**

- 7.1 The continuing improvement of the risk management framework and the implementation of more effective processes will help to improve the ability to handle risk across the organisation.

