

Audit and Risk Management Committee
Monday, 23 July 2018

REPORT TITLE:	INSURANCE FUND ANNUAL REPORT
REPORT OF:	Director of Finance and Investment

REPORT SUMMARY

This report provides a review of Risk and Insurance activity during 2017/18 and the plans for 2018/19 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 2017/18 are confirmed.

RECOMMENDATION/S

1. That Members endorse the release of monies from the Insurance Fund to the General Fund indicated in paragraph 3.40.
2. That officers are requested to prepare the Insurance Fund Budget 2019/20 for presentation to this committee in January 2019.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATIONS

- 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 excess of reserves on the Liability class of business and for improving resilience 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 12%) 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 functions 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 £3.2m for all claims occurring in any one policy year. 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 its insurers. The current policy resulted from a competitive tender exercise undertaken in 2016/17. The Long Term Agreement on this contract is in place until 31 March 2020 at which point the Council has an option to renew it for a further 2 years.
- 3.8 Members may recall that under the contract the Council self-handles low value property damage where no solicitor is involved. This continues to keep down claims handling costs. During 2017/18 100 claims were handled by the Risk and Insurance team. As at 31 March 2018 19 of these claims remained open. Of the 81 which had been closed liability was denied in 65 cases. The total amount paid for the 16 files which were closed with a payment was £5,940.
- 3.9 A large proportion of claims are still administered by both the former insurer Zurich Municipal and the current insurer Protector. However neither company has 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 insurers 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 One outcome of the tragic fire at Grenfell Tower in June 2017 has been a reconsideration of the level of exposure of local authorities to the risk of legal liability. The Council increased the limit of indemnity on its Liability insurance from £30m to £50m at the start of the current contract in April 2017. However the Council's insurance brokers have suggested that although the council does not have a housing stock of its own a limit of at least £100m should be considered in order to protect the Council against a catastrophic loss. I will be exploring the cost and affordability of such an increase as part of the setting of the insurance budget for 2019/20.

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 previous versions 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. There are proposals to extend fixed costs in claims worth up to £100,000. This is presently being considered by the senior judiciary and the Ministry of Justice. An increase in the small claims limit is contained in the Prisons and Courts Bill.

This is currently under review and there is the possibility this may be introduced in April 2019. These changes have the potential to further reduce the average cost per claim for the Council. . A working party are currently undertaking a general review of low value claims. This involves considering steps which may be taken to tackle fraud and resolve meritorious claims more quickly with reduced costs.

Public Liability Claims Statistics

- 3.12 The rate of receipt of new Public Liability (PL) claims increased compared to 2016/17. During 2017/18 a total of 250 new claims were received.

Table 1: Claims received – Public Liability

	Number of new Public Liability Claims Received within year				
	2013/14	2014/15	2015/16	2016/17	2017/18
Highway Claims	373	319	324	204	210
Other	72	71	39	24	40
Total Claims	445	390	363	228	250
Year on Year	N/A	- 12%	- 7%	-37%	+9%

- 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. The winter of 2017/18 was more severe than in recent years and this is likely to have contributed to the increase in highway claims received.
- 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 Individual claims can take many years to settle. A portfolio of approximately 260 open public liability files with a potential combined value circa £2.5m is currently being managed.

Employers Liability Claims Statistics

3.16 The number of Employers Liability (EL) claims received in 2017/18 fell slightly to a total of 16. This is significantly less than the peak several years ago and less than the long term average. In recent years many of the EL claims received have related to disease from exposure many years before. This trend continued in 2017/18. The alleged causes of the new claims are noted within table 2 below.

Table 2: Claims Received – Employers Liability

New Employers Liability Claims Reported by Date with Alleged Cause					
	2013/14	2014/15	2015/16	2016/17	2017/18
Vibration	7	6	6	2	2
Noise (NIHL)	15	5	11	5	3
Asbestos	1	0	2	0	0
Slip / trip / trap / fall	18	12	5	7	4
Others including assault / stress and harassment	9	13	11	4	7
Total for year	50	36	35	18	16

3.17 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.

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

- 3.19 The overall reserve for known EL claims was approximately £650,000 at 31/03/18 across 37 current live files (excludes multiple registrations for account years).
- 3.20 The level of complexity within individual EL cases has continued. It is also generally becoming more difficult to track down essential witnesses and documents. A lack of documentation for historic cases is expected. However 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 can be impacted by this situation.
- 3.21 The management of Liability claims continues to occupy a substantial amount of the risk and insurance resource. Again in 2017/18 new cases received included a number of 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.
- 3.22 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 in controlling tactics and procedure all assist in containing the overall cost to the Council of this area of risk.
- 3.23 One area of uncertainty concerning the Council's Liability exposure is presented by the insourcing of Highways Maintenance. From 1 October 2018 the Council will be exposed to Employers Liability in relation to the employees subject to TUPE transfer and Public Liability in respect of the work undertaken under the contract. Such risks are currently the responsibility of the external contractor. I will monitor the impact of this change and take this into account in future annual reviews.

Property and Business Interruption

- 3.24 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. Any costs above this are met by the insurer. As indicated in my report on the management of insurance and corporate risk a new insurance contract for these risks came into force with the existing insurer Zurich Municipal on 30 June 2018.
- 3.25 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 the reinstatement process and ensuring the optimum settlement is achieved from the insurer.

- 3.26 The table below shows the number and cost of claims in the last 5 policy years. It should be noted that the claims history for this policy has been very low, particularly given the size of the Council's property portfolio.

Year	Number	Paid to Date	Outstanding	Total
2013/14	17	£ 30,529	£ 0	£ 30,529
2014/15	13	£ 86,480	£ 0	£ 86,480
2015/16	13	£101,205	£ 0	£101,205
2016/17	16	£ 55,712	£ 0	£ 55,712
2017/18 *	12	£ 24,889	£49,652	£ 74,541

* Part year figures (as at 31 May 2018)

Motor

- 3.27 The Council self-insures to a maximum £213,700 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 Long Term Agreement on this contract expires on 31 March 2019. A competitive procurement exercise for this contract will be conducted before that date.
- 3.28 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.
- 3.29 A 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, minibuss 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.
- 3.30 The table below shows the number and cost of claims in the last 5 policy years. With the exception of 2015/16 which includes one large claim reserved at approximately £38,000 the claims history for this policy in this period has also been low.

Year	Number	Paid to Date	Outstanding	Total
2013/14	32	£50,369	£ 0	£50,369
2014/15	43	£32,297	£ 0	£32,297
2015/16	38	£42,743	£37,954	£80,697
2016/17	29	£35,341	£12,694	£48,035
2017/18	31	£50,858	£10,007	£60,864

Other Classes of Business

- 3.31 Risks which present a more limited exposure to loss (such as damage to equipment, loss of money, damage to water craft and damage to plate glass) are wholly self-insured. Responsibility for handling claims for these areas rests solely with the risk and insurance service. Others (such as Computer, Crime 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.

Review of Liability Reserves and Provisions

- 3.32 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.
- 3.33 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.
- 3.34 Actuaries will generally not provide a specific defined figure for recommended funding levels. But instead provide a range of figures for the scheme manager to consider based on the organisation's risk appetite.
- 3.35 During 2017/18 I commissioned the Council's insurance brokers to produce a funding study based on Liability claims data as at 31 March 2017. The study was to provide recommendations as to the sums required to be held to meet insured losses as well as forecasts as to the cost of claims in future financial years and the level of annual contributions to the Council's Insurance Fund to meet these.
- 3.36 This exercise indicated that a sum of £6,437,508 would be required as at 31 March 2018 to meet outstanding liabilities as per the centre column of the table below. In addition I consider it prudent to maintain the existing reserve of £1m set aside to meet uninsured losses (those relating to historic periods where the insurer cannot be identified or has become insolvent)

Combined Liability	Funds Available at 31/03/2018 £	Actuary's Recommendation at 31/03/18 £	Difference £
Provisions < 1 year (275 x IF028 provision for known liability claims that is expected to be utilised entirely within 2016/17)	1,000,000	1,000,000	0

Provisions > 1 year (276x IF028 provision for known liability claims where payment is expected to be made beyond the next year)	2,195,381	2,273,941	78,560
Insured Liability Reserve (475x IF028 reserve for insured claims incurred but not yet received, or claims received but insufficiently reserved)	3,512,918	2,684,366	-828,552
Uninsured Liability Reserve (475x IF056 reserve to cover claims payments for periods of insurer insolvency or policy coverage deficiency)	1,000,000	1,000,000	0
MMI reserve / provision (475x IF022 + 275x IF022 reserve to cover claims payments for periods of insurer insolvency or policy coverage deficiency)	404,380	479,201	74,821
Total liability reserves / provisions	8,112,679	7,437,508	675,171

3.37 It will be noted that as at 31 March 2018 the Fund held greater funds to meet its commitments in relation to Liability claims than the funding study has suggested was needed. Given the opportunity cost of retaining excess funding I have arranged for the £675,000 surplus to be released from the Liability reserves and provisions to General Fund balances.

Review of Other Reserves and Provisions

3.38 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 2018 in respect of these elements of the Fund.

Class	Funds Available as at 31/03/18 £	Sum Required at 31/03/18 £	Difference £
Property (IF020)	2,000,000	2,000,000	0
Motor (IF018)	200,000	200,000	0
Wholly self-insured claims (PFI plate glass equipment money marine) (IF051, IF053, IF103, IF104, IF111)	134,749	146,340	11,591
Fidelity Fund (IF105)	31,500	34,500	3,000
Business Continuity and Resilience (funds improvements in resilience to service disruption) (IF021)	1,333,000	0	-1,333,000
Professional Indemnity (funds excesses on Professional Indemnity claims and claims for uninsured services) (IF046)	50,000	50,000	0
Risk Management (supports individual risk improvement initiatives) (IF024)	150,000	150,000	0
Claims Management (funds the legal costs of handling uninsured liability claims) (IF047)	141,373	140,773	-600
Contaminated Land (funds uninsured liability claims for environmental impairment) (IF023)	750,000	750,000	0
Budget Surplus / Deficit (balance of Fund income v expenditure) (IF052)	69,976	0	-69,976
Total	4,860,598	3,471,613	£1,388,985

3.39 The reserve for Business Continuity and Resilience had been held for a number of years to improve the resilience of the Council's IT Network through the creation of an alternative data centre. The expenditure incurred in 2017/18 on the data centre has been capitalised allowing financing costs to be spread across years and enabling the reserve to be released for other uses. As a result the reserve was no longer required and I have arranged to return it to General Fund balances in 2017/18.

3.40 The closedown of the Insurance Fund accounts for 2017/18 and review / amendment of the reserves and provisions held within it therefore resulted in the following key actions.

- (i) **The release of £675,000 from the provision and reserve for Liability claims to the General Fund.**
- (ii) **The release of £1,325,000 from the reserve for Business Continuity and Resilience to the General Fund**

3.41 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 released 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 2017/18

3.42 Throughout 2017/18 regular progress reports on Risk and Insurance Management were presented to this Committee.

Services for Schools

3.43 The insurance facility for Academy schools established in 2011/12 remained 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 £37,000 in 2017/18. This helped to offset the Council's own insurance administration costs.

3.44 Wirral has remained at the forefront of developments in the field of insurance for academies. Any increase in academy conversions 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 decreases. Over time this could reduce the authority's buying power and the degree to

which it could self-insure. This in turn could increase the cost of financing insurable risk.

Budget

- 3.45 The Insurance Fund Budget 2018/19 was approved by Audit & Risk Management Committee on 29 January 2018. The report confirmed that the cost to the General Fund would be unchanged from 2017/18.

Procurement

- 3.46 A competitive procurement exercise in relation to the Council's Property, Business Interruption, Museums, Crime, Terrorism and Personal Accident / Business Travel insurance policies was concluded in June 2018. This resulted in the placement of new multi-year contracts at a lower cost than applied in previous financial years.

Insurance Management 2018/19 and beyond

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

Task	Target Date
Compile the Insurance Fund Budget 2019/20	January 2019
Procurement of Motor and Engineering insurance	March 2019
Negotiate the annual renewal of Liability, Motor, Engineering and Foster Care policies	March 2019
Negotiate the annual renewal of Property, Business Interruption, Museums All Risks, Crime and Personal Accident / Business Travel policies	June 2019

4.0 FINANCIAL IMPLICATIONS

- 4.1 The performance of the Insurance Fund and the capitalisation of the alternative data centre project have enabled £2.0m to be released to General Fund balances in 2017/18.
- 4.2 The need to remarket the Motor and Engineering insurance contracts creates uncertainty around the cost of these contracts in 2019/20 and beyond.

5.0 LEGAL IMPLICATIONS

- 5.1 There are none arising directly from this report.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

- 6.1 Remarketing the Motor and Engineering insurance contracts will take up a proportion of the capacity within the Risk and Insurance service.

7.0 RELEVANT RISKS

- 7.1 Tendering the Motor and Engineering insurance contracts could result in the Council facing higher premiums than at present. Although a relatively competitive market for such should help to mitigate this. Officers will also work to create the maximum interest in and competition for these contracts.
- 7.2. As indicated in paragraph 3.43 a rapid expansion of Academies in the borough could ultimately make the authority's insurance programme relatively more expensive than at present. Officers remain vigilant to potential conversions and will make changes to the authority's arrangements to ensure that potential negative impacts are gradual and limited wherever possible.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 No specific consultation has been undertaken with regard to this report.

9.0 EQUALITY IMPLICATIONS

- 9.1 There are none arising directly from this report.

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APPENDICES

None

REFERENCE MATERIAL

Correspondence with insurers, brokers and legal services providers

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Audit & Risk Management Committee	Regular report presented annually to this committee.