

## WIRRAL COUNCIL

### CABINET

21 JUNE 2012

<b>SUBJECT</b>	<b>INSURANCE FUND ANNUAL REPORT</b>
<b>WARD/S AFFECTED</b>	<b>ALL</b>
<b>REPORT OF</b>	<b>ACTING CHIEF FINANCE OFFICER</b>
<b>RESPONSIBLE PORTFOLIO HOLDER</b>	<b>COUNCILLOR PHIL DAVIES</b>
<b>KEY DECISION</b>	<b>NO</b>

#### 1.0 EXECUTIVE SUMMARY

1.1 This report provides a review of the Risk and Insurance activity during 2011/12 and the plans for 2012/13 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 2011/12 are confirmed and a recommendation made for a release of resources to the General Fund.

#### 2.0 BACKGROUND AND KEY ISSUES

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

- 2.1 Since 1988 the Authority has used a combination of self-insurance and external insurance to address the financial consequences of risk.
- 2.2 Those risks which have the potential to generate very costly 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, damage to Council buildings and motor accidents involving Council vehicles.
- 2.3 Other more minor risks such as damage to equipment and plate glass are wholly self insured.
- 2.4 The self-funding of losses is part of the overall Risk Management Strategy. This provides a greater incentive to deal with risk more effectively as any reduction in claims directly benefits the Authority. It also minimises the liability for Insurance Premium Tax 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 appetite for risk.
- 2.5 Claims are met from the Insurance Fund with the Fund being maintained through annual contributions from all departments.

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

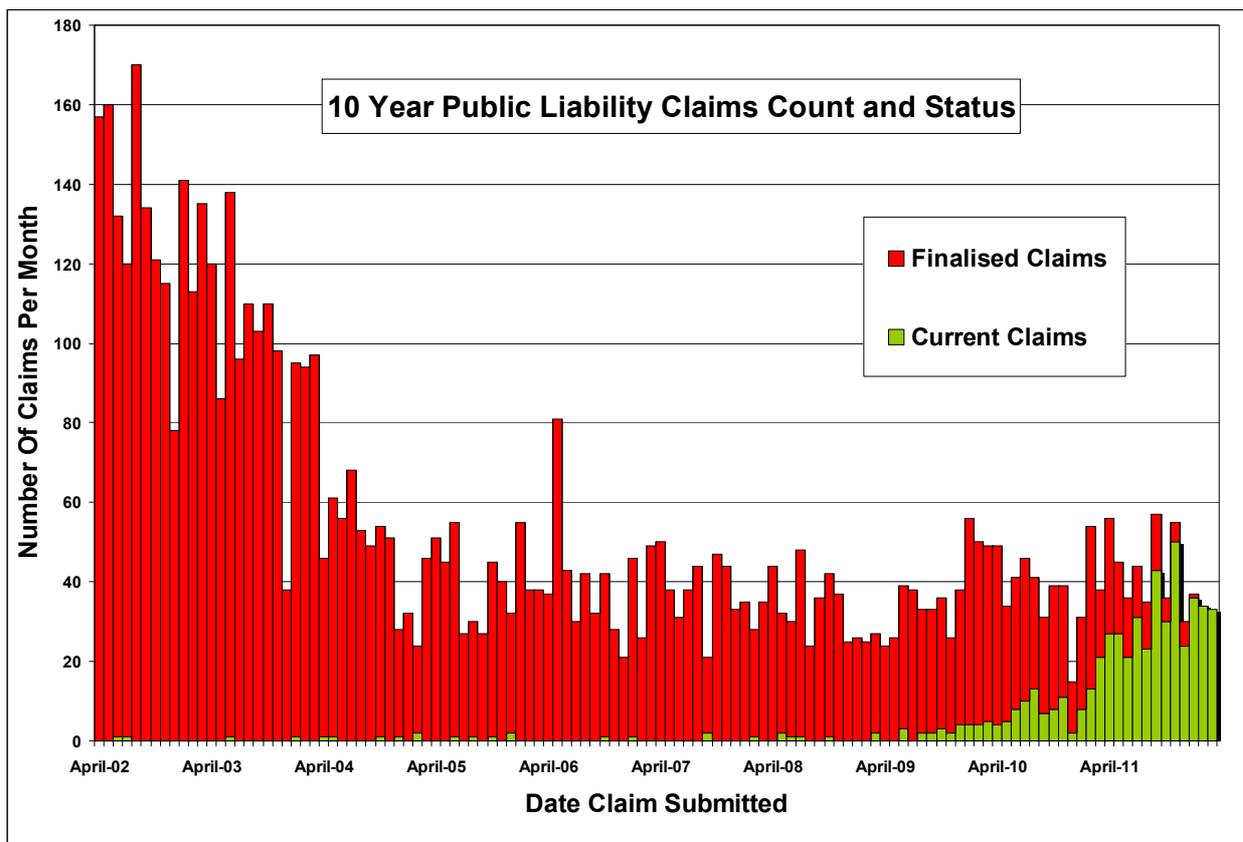
### **Principal Areas of Insured Risk - Liability**

- 2.7 The Council currently self-insures to a maximum aggregate of £2.5 million all claims relating to any one policy year. The level of aggregate varies from contract to contract according to market conditions and loss history. It has been as high as £7.25 million in 2005/06. In addition the Council's maximum liability for any single claim is limited to £250,000. Any costs above this are met by the insurer Zurich Municipal. The policy is subject to a Long Term Agreement until 31 March 2015 under which the policy is renewed each year provided that the premium rate and terms are unchanged.
- 2.8 Whilst claims are administered by Zurich Municipal 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 Council. This ensures that decisions are made in the best interests of the authority and a stable claims strategy can be maintained. The insurers have no financial interest in claims below the deductible and therefore may have little motivation to secure the most efficient outcomes. On matters that exceed £250,000 the Council works in partnership with the insurers to agree mutually acceptable outcomes. Zurich Municipal and the solicitors engaged to defend legal proceedings work to defined service level agreements and their performance is continuously monitored and managed.
- 2.9 After the high levels of claims experienced around ten years ago the number of public liability claims has settled in recent years to a relatively predictable level as has the payment pattern. 2011/12 saw 500 new Public Liability (PL) claims.

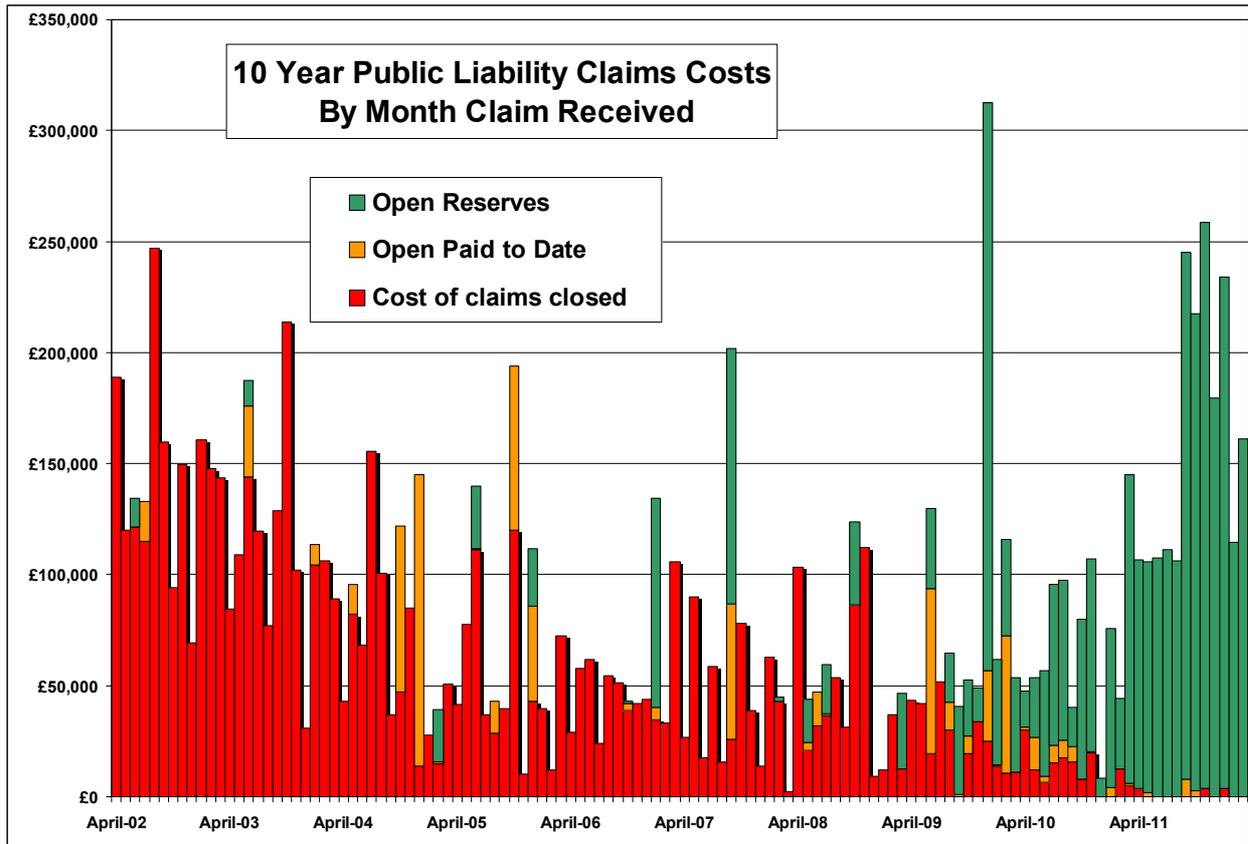
<b>PUBLIC LIABILITY CLAIMS</b>		<b>Claims 2011/12 Number</b>	<b>Paid &amp; Reserved £</b>
<b>Department</b>	<b>Function</b>		
Technical Services	Carriageway Claims	146	417,449
Technical Services	Footway Claims	240	1,041,650
Technical Services	Leisure	48	223,273
Technical Services	Other	30	100,023
Children & Yg People	All	31	255,037
Finance	All	1	3,500
Adult Social Services	All	1	15,000
Law, HR & Asset Mgt	All	3	22,156

2.10 The charts which follow are based on the date that the claim was received rather than the date of incident to indicate the work generated during the year. If Members require claims data in any other format it can be provided.

2.11 There are currently 594 open public liability files. Whilst the majority relate to slips and trips a proportion are significantly more complex involving abuse, defamation, bullying and harassment, failure to educate, disease, subsidence, nuisance and social services matters. The chart shows the number of claims received (by month) and the current status of those claims which shows that the more complex claims can take many years to settle.



2.12 The following chart indicates the expected final costs of claims received during the same 10 year period. The monthly totals are split between amounts paid on closed claims, paid to date on open claims and reserves for claims not yet paid. The higher reserved costs for recently submitted claims are accounted for by the Council's high repudiation rate. A reserve has to be provided for each claim on a full liability basis until investigations indicate that a defence is available. Provided that the excellent repudiation rate can be maintained, by departments providing us with a sound defence, it is expected that the ultimate cost of these latest claims will revert to the standard PL settlement pattern of less than £1 million per year.



2.13 During 2011/12 there were 63 new Employers Liability (EL) claims:-

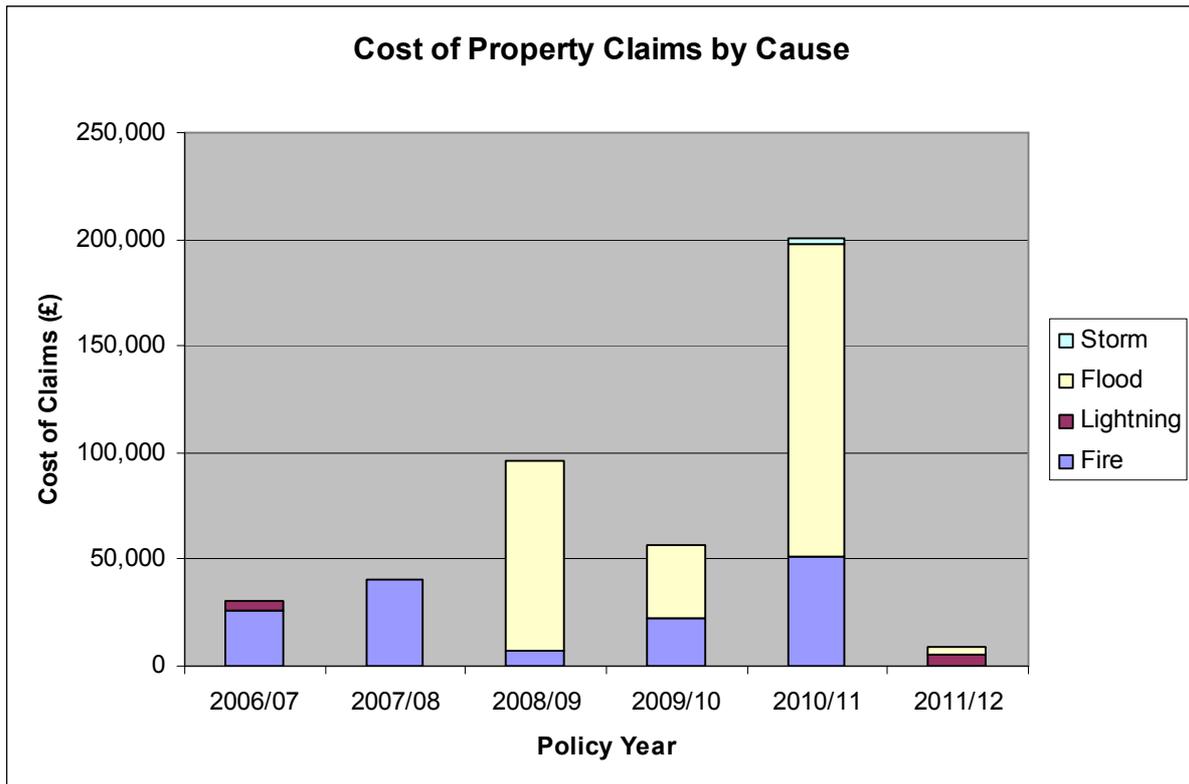
EMPLOYEE LIABILITY CLAIMS		Claims 2011/12	Paid & Reserved
Department	Function	Number	£
Technical Services	Various	12	77,753
Technical Services	Leisure	23	348,043
Regeneration	All	2	23,939
Children & Yg People	All	16	156,943
Finance	All	1	7,500
Adult Social Services	All	5	63,000
Law, HR & Asset Mgt	All	4	40,850

2.14 Despite a reduction in the workforce the volume of Employers Liability claims continues to grow. Much of the growth continues to result from vibration related claims from Parks and Open Spaces employees and it is expected that the ultimate cost will be in the region of £750,000.

2.15 There are currently 112 open claims with claims frequently submitted with an exposure period as far back as the 1950's and 1960's for matters such as Noise Induced Hearing Loss and cancers relating to asbestos exposure. Wirral are also the designated claims handlers for employment claims attributable to the former Merseyside County Council. The time span and documentary evidence available make these cases complex to resolve.

2.16 Although the number of PL / EL claims overall remains relatively static the complexity of individual cases continues to increase. A lack of witnesses and documentation for historic cases is not unexpected but for more recent cases any shortfall in employee information is of concern and can affect insurers views of the Authority. If claims are to be managed within the existing capacity these complex claims can severely impact upon the available resources.

### Property and Business Continuity

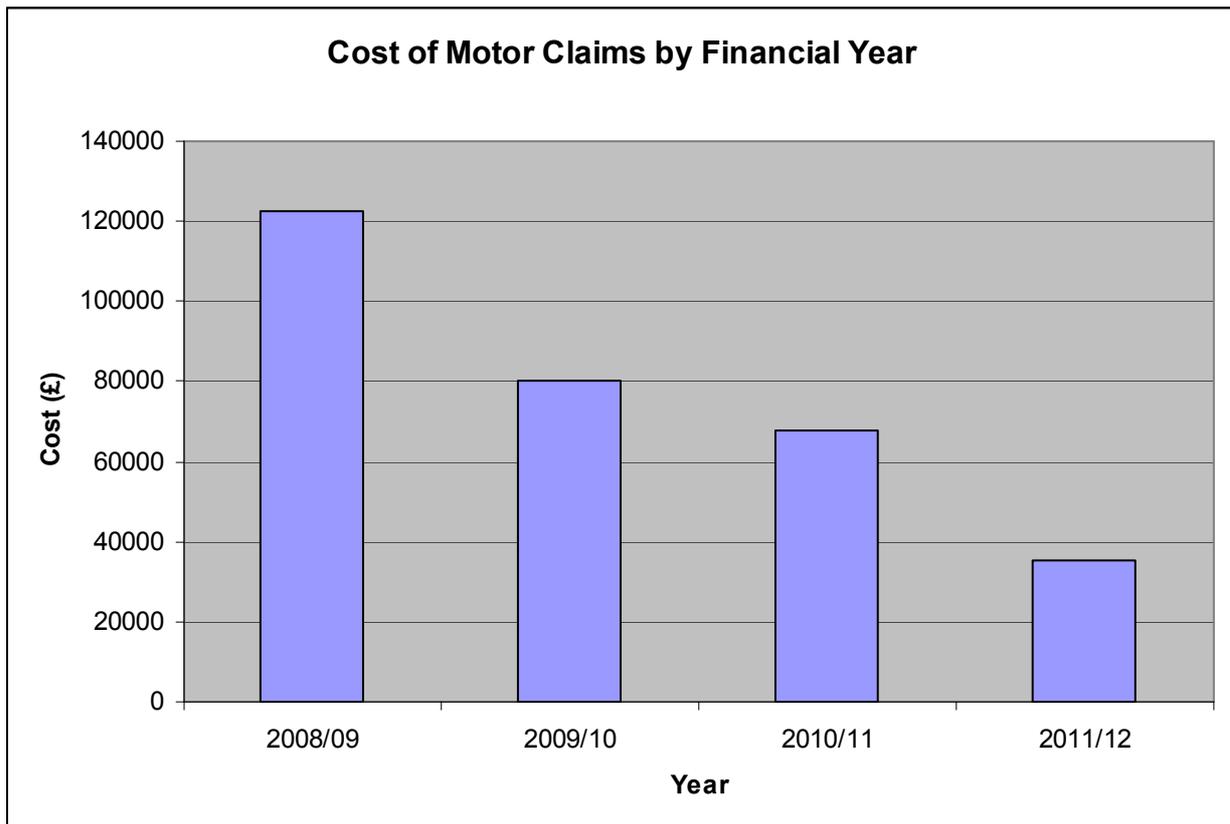


2.17 The Council self-insures to a maximum of £500,000 damage to property through fire and £1 million for damage to property through storm and flood. It also has a maximum liability of £500,000 for business continuity losses through fire and £1 million through storm and flood. Any costs above this are met by the insurer Zurich Municipal. The Long Term Agreement on these policies expires on 29 June 2013 and will be subject to competitive tender in 2013. External premiums have fallen in recent years in line with reductions in the sums insured arising from Academy conversions.

2.18 Whilst all 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 but the internal team would still have a significant role in ensuring the optimum settlement for the authority.

2.19 When the contract was last tendered in 2008 the Property insurance was extended to cover storm flood and escape of water. The widening of cover has led to a significant increase in the number and cost of claims. Losses were high in 2010/11 when the severe winter led to a number of major floods from burst pipes but costs remain within the level of annual contributions to the Fund.

### Motor



2.20 The Council self-insures to a maximum £200,000 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 Zurich Municipal. The policy is subject to a Long Term Agreement until 31 March 2014. External premiums have fallen sharply in recent years in line as the Council's fleet has reduced with the outsourcing of services.

2.21 The authority handles all claims for 'own damage' and 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.

- 2.22 The reduction in vehicle numbers has been partly responsible for a significant decrease in the volume and cost of claims in recent years whilst better management of fleet risk has been another factor. The authorisation to drive procedure, minibus assessment process and a more robust approach to the investigation of accidents and the management of claims are all elements of this approach.
- 2.23 Although claims numbers are low an increase has been noted in claims for alleged 'whiplash' injuries and cases where third parties later dispute claims for which they were clearly responsible.

### **Other Classes of Business**

- 2.24 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 Council. Others (such as Money Computer Fidelity Guarantee and Personal Accident) are partially underwritten by insurers, procured through competitive tender and subject to Long Term Agreements. The Council liaises with insurers over the small number of claims generated by these contracts.

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

- 2.25 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.
- 2.26 To help ensure that the Fund is sufficient meet the cost of liability claims but is not over resourced a review is usually undertaken every two years by an external actuary who assesses the amount needed to fund anticipated liabilities for previous years. In the intervening years a self-evaluation is undertaken for the same purpose.
- 2.27 Ordinarily an external review would have been commissioned to examine the liabilities incurred as at 31 March 2012. As reported to Audit & Risk Management Committee on 13 March 2012 the current stability of the account did not warrant the £7,000 cost of an external review. Furthermore the uncertainty for future funding requirements posed by ongoing changes to the civil justice regime would also limit the benefit of an external study Therefore a further self-evaluation was undertaken this year.
- 2.28 The funding required was calculated by taking the sum recommended by the actuary for losses as at 31 March 2010 and adjusting this for the premiums received and losses met by the Fund in both 2010/11 and 2011/12. This self-evaluation indicated that a sum of £8,286,243 was required as at 31 March 2012 to meet outstanding liabilities:-

<b>Combined Liability</b>	<b>Actual Provision 31/03/12 £</b>	<b>Revised Provision 31/03/12 £</b>
Provisions < 1 year	1,200,000	1,200,000
Provisions > 1 year	4,899,995	4,899,995
Reserves (claims incurred but not yet received)	2,186,248	2,186,248
<b>Total</b>	<b>8,286,243</b>	<b>8,286,243</b>

### Review of Other Reserves and Provisions

2.29 As indicated earlier 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 and these are reviewed each financial year. The amounts held at the end of March 2012 compared to the amounts based upon the self-evaluation identified that £166,352 could be returned to Council balances.

<b>Class</b>	<b>Actual Provision 31/03/12 £</b>	<b>Revised Provision 31/03/12 £</b>	<b>Difference to general balances £</b>
<b>Property</b>	2,625,608	2,500,000	125,608
<b>Motor</b>	292,409	250,000	42,409
<b>Wholly self-insured claims</b> (such as plate glass and equipment)	277,830	277,830	0
<b>Civil Contingency</b> (funds improvements in resilience)	1,500,000	1,500,000	0
<b>Non Highway Risk Improvement</b> (improvements to footpaths and surfaces in parks, leisure centres etc.)	198,000	198,000	0
<b>Risk Management</b> (supports individual risk initiatives)	148,335	150,000	-1,665
<b>Uninsured liabilities</b> (funds historic claims where insurer cannot be traced or is insolvent)	2,127,950	2,127,950	0
<b>Claims Management</b> (cost of handling uninsured liability claims)	289,564	289,564	0
<b>Budget Surplus / Deficit</b> (balance of fund income v expenditure)	155,920	* 155,920	0
<b>Total</b>	<b>7,615,616</b>	<b>7,449,264</b>	<b>166,352</b>

\* £136,030 of this reserve is to be used to limit the inflationary increase in insurance charges to the General Fund in 2012/13 (as per Cabinet resolution 24 November 2011).

- 2.30 A recent decision of the Supreme Court in relation to the Employers Liability trigger litigation has made it more likely that a 'claw back' clause in the Scheme of Arrangement for Municipal Mutual Insurance (MMI) will be initiated. The current potential cost to Wirral of the claw back (£500,000) is fully funded within the reserve for Uninsured Liabilities. However in the longer term if the claw back does not enable MMI to achieve a solvent run off the Council may also have to fund a part of the cost of future claims. Such a situation is by no means certain and the likely cost cannot be quantified with any accuracy at this time.
- 2.31 I am proposing to restore the balance of the Risk Management provision to £150,000. The surpluses in the Property and Motor provisions are due to low levels of losses and effective claims management and I propose releasing these to the General Balance.

### **Insurance and Risk Management 2011/12**

- 2.32 Throughout 2011/12 regular progress reports on Risk and Insurance Management were presented to the Audit & Risk Management Committee.

#### Claims Issues

- 2.33 The Risk & Insurance Team has continued a national role in relation to the ongoing reforms to civil litigation funding and costs lead by Lord Justice Jackson. This is a complex issue with a Wirral officer investing considerable effort over the last 3 years representing the views of the public sector. This has seen Wirral having direct dealings with Ministers, MP's, senior Whitehall Civil Servants and leading trade bodies such as the Association of British Insurers (ABI) and the Federation of Insurance Lawyers (FOIL). The officer now also formally represents the interests of the Association of Local Authority Risk Managers (ALARM) in relation to liability and claims matters with expenses in relation to this work now met by ALARM. Whilst the outcomes of the many complex and interdependent policy threads are not finalised Wirral has the benefit of direct input into the consultations, advanced knowledge of potential implications together with a high profile within the insurance industry that will assist with our insurance and claims programmes.
- 2.34 Improvements reported in claims management in previous years were sustained through the continuing efforts of departments to manage their liability risk. The 'firm but fair' stance on liability and the counter-claims fraud strategy also contribute to this outcome. Although numbers have increased slightly the performance of claims handling and legal services providers and the continuing active involvement of officers in tactics and procedure all assist in containing the overall cost to the Council of this area of risk.

2.35 The management of Liability claims took an increasing amount of the capacity during the year. In addition to the issues noted earlier in respect of vibration claims and noise induced hearing loss cases, there are specific complex and time-consuming Public and Employee Liability claims.

#### Services for Schools

2.36 The Council cannot provide insurance for those schools which transfer to Academy Schools. To provide support an insurance facility for Academy Schools was established and has proven popular. Assistance is provided in obtaining competitive quotations for academy-specific insurance packages, critically appraising policy wordings verifying all policy documentation, providing support with claims and general risk management advice. The service generated income of approximately £25,000 in 2011/12.

2.37 The risk ranking survey programme for primary and special schools was completed in July 2011 with all schools being given tailored risk improvement advice. A report summarising the surveyor's findings was shared with the Department for Children & Young People to inform the allocation of future capital funding.

#### Budget

2.38 The Insurance Fund Budget 2012/13 was approved by Cabinet on 24 November 2011. Cabinet noted the savings to the Schools Budget of £226,000 and agreed to use a reserve within the Insurance Fund to limit to £20,000 the budgetary increase to the General Fund.

#### Joint Working

2.39 Arrangements were made for Liverpool City Council to join the Council's contract for Insurance Broking and Advice as this had been issued on a collaborative basis.

2.40 Advice has also been provided to Sefton Council in relation to improving their arrangements for procuring insurance and related services and for managing claims. The authority also joined Wirral's legal defence services contract which had also been issued on a collaborative basis.

#### Strategic Risk Management

2.41 The Executive Team was supported in reviewing the Corporate Risk Register with the revised Register approved by Cabinet on 2 February 2012. Progress in tackling these risks is covered in the Corporate Risk Monitoring Summary which is an appendix to the quarterly Corporate Performance and Financial Review.

- 2.42 Following discussion at the Executive Team Cabinet endorsed the need for a new Risk Management Framework and processes. A critical appraisal of the existing Risk Management Strategy was undertaken and a project plan covering the work required to introduce required improvements was produced. Draft proposals have been prepared for consideration by the Chief Executive and the Leadership.
- 2.43 A priority for improvement is the introduction of a corporate system to capture, analyse and report risk information. Such a system would support understanding of the risk profile and strategic and operational decision-making. The functionality of the Council project management system with respect to risk was compared against a baseline specification and Concerto Support Services Limited have proposed enhancements to the functionality of their system to address the gaps. The system is now being implemented.
- 2.44 Regular quality checks on reports presented to Cabinet were undertaken and feedback provided to Chief Officers to help ensure continuous improvement.
- 2.45 As part of the ongoing programme of training for Members the Risk & Insurance Officer delivered an introduction to risk management in September 2011.
- 2.46 Advice and support has been given to departmental management teams including the recently formed Department of Regeneration Housing & Planning in respect of robust structures and processes for identifying and managing risk.

### **Insurance and Risk Management 2012/13 and beyond**

- 2.47 A significant area of work concerns improvements to the Risk Management Framework and processes.

<b>Task</b>	<b>Target Date</b>
Undertake the in-house review of funding for insured liabilities	May 2012
Discuss with leadership proposals for improvements to Risk Management Framework and processes	June 2012
Roll out new risk management module of Concerto project management system	August 2012
Negotiate annual renewal of Marine Insurance contract	September 2012
Deliver risk management training session for Members	September 2012
Complete the Insurance Fund Budget 2013/14	October 2012
Begin exercise to remarket and procure the Property, Business Interruption, Money and Fidelity Guarantee insurance contracts	January 2013
Review of key departmental risks for 2013/14.	Feb/Mar 2013
Confirm terms for the renewal of the Liabilities, Motor, Engineering, Computer and Foster Care policies	February 2013

2.48 In 2014 the existing Long Term Agreements (LTAs) for the Motor and Engineering contracts expire. This will require an EU compliant competitive tender exercise to determine the future provider. The following year LTAs for the Liability and Computer insurance contracts end and the Liability insurance tender is the most complex and time consuming procurement exercise of the tenders. Premium rates in the insurance market are cyclical and the existing contracts were placed at the peak of a 'soft' insurance market. There is some evidence that the market is now hardening and, with the claims issues above, mean that an increase in premiums is likely.

2.49 Regular reports on the progress of Insurance and Risk Management will continue to be presented to the Audit and Risk Management Committee. There will also be regular updates on significant risks as part of the quarterly Performance and Financial Review reports presented to Cabinet.

### **3.0 RELEVANT RISKS**

3.1 The release of money from the Insurance Fund could potentially leave it exposed in the event of a series of major losses. However, the Council's liability is limited by aggregate excesses and for some policies the Fund reflects the maximum liability for that risk in any one year. In respect of other risks the amount within the Fund is assessed by the Risk & Insurance Team understanding of claims patterns and costs. Expenditure on major losses would be incurred over several years allowing time to supplement funding should it be necessary.

3.2 Insurance charges (including those for schools) are calculated six months before the start of each financial year. Schools converting to Academy status cannot be covered by the Council's insurance arrangements. Uncertainty over which schools will convert and the date of conversion presents a risk that the Insurance Fund will not recover sufficient premiums to meet claims from schools. This is mitigated to some degree by ensuring that developments are known as early as possible.

3.3 If the clawback arrangement does not enable MMI to achieve a solvent run off it is possible that the Council may have to fund a proportion of future claims which it submits to the company although this is not considered likely at present. As liability claims take months if not years to settle this would afford the Council time to consider reviewing funding levels.

### **4.0 OTHER OPTIONS CONSIDERED**

4.1. The current surplus could be retained within the Insurance Fund but this has been identified as being greater than the level of resource required.

### **5.0 CONSULTATION**

5.1 Secondary Schools will be closely involved in any further development of the insurance facility for Academy Schools.

## **6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

6.1 There are no implications arising directly from this report.

## **7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

7.1 The continuing effective and pro-active approach to managing insured risk is reflected in the assessment of the amounts required in the Insurance Fund to meet current and future claims.

7.2 The Insurance Budget 2012/13 produced a saving to schools of £226,000. The increase to the General Fund has been limited to £20,000 through use of a reserve within the Insurance Fund. The Insurance Fund Budget 2013/14 is to be presented to Cabinet in November 2012.

7.3 The sum of £166,352 has been released from the Insurance Fund to the General Fund balance in 2011/12. No further release is anticipated in 2012/13.

7.4 Although under pressure the Risk & Insurance Team currently has sufficient resource to deal with its insurance responsibilities. However the additional work required as a result of the planned improvements to risk management arrangements may not be deliverable within existing staff resources.

## **8.0 LEGAL IMPLICATIONS**

8.1 There are no implications arising directly from this report.

## **9.0 EQUALITIES IMPLICATIONS**

9.1 There are no implications arising directly from this report.

9.2 Equality Impact Assessment (EIA) is not required for this report.

## **10.0 CARBON REDUCTION IMPLICATIONS**

10.1 There are no implications arising directly from this report.

## **11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

11.1 There are no implications arising directly from this report.

## **12.0 RECOMMENDATIONS**

12.1 The Insurance Fund Budget 2013/14 be presented to Cabinet in November 2012.

12.2 That the sum of £166,352 be released from the Insurance Fund to the General Fund balances.

12.3 That the Risk Management reserve be restored to a balance of £150,000.

### **13.0 REASONS FOR RECOMMENDATIONS**

13.1 The Insurance Fund Budget forms part of the Council budget-setting process.

13.2 The sum proposed for release is in excess of that required to fund losses.

**REPORT AUTHOR:** Mike Lane  
Designation Risk and Insurance Officer  
Telephone (0151) 666 3413  
Email mikelane@wirral.gov.uk

### **SUBJECT HISTORY**

<b>Council Meeting</b>	<b>Date</b>
Insurance Fund Budget 2012/13 - Cabinet	24 November 2011
Insurance Fund Annual Report - Cabinet	23 June 2011
Insurance Fund Budget 2011/12 - Cabinet	2 September 2010
Insurance Fund Actuarial Review - Cabinet	24 June 2010
Insurance Fund Budget 2010/11 - Cabinet	26 November 2009
Insurance Fund Annual Report - Cabinet	25 June 2009