

WIRRAL COUNCIL

AUDIT & RISK MANAGEMENT COMMITTEE

23 JUNE 2014

SUBJECT	INSURANCE FUND ANNUAL REPORT 2013/14
WARD/S AFFECTED	ALL
REPORT OF	DIRECTOR OF RESOURCES
KEY DECISION	NO

1.0 EXECUTIVE SUMMARY

1.1 This report provides a review of the Risk and Insurance activity during 2013/14 and the plans for 2014/15 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 2013/14 are confirmed.

2.0 BACKGROUND AND KEY ISSUES

Approach to Risk Financing

- 2.1 Since 1988 the Council 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 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 damage to Council buildings and motor accidents involving Council vehicles. Other more minor, expected, losses such as damage to equipment and plate glass are wholly self insured.
- 2.3 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 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.
- 2.4 Claims are met from the Insurance Fund with the Fund being maintained through annual contributions from all directorates and from schools.
- 2.5 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

- 2.6 The Council currently self-insures liability risks to a maximum aggregate of £2.5 million 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 £7.25 million in 2005/06. In addition the Council's maximum liability for any single claim is currently 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 Council agrees to renew the policy each year provided that the premium rate and terms are unchanged. There is an option for the Council to extend the contract for a further 2 years to 31 March 2017.
- 2.7 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 rather than the insurers and that a stable claims strategy can be maintained. The insurers have no financial interest in claims below the deductible and therefore they may have little motivation to secure the most efficient outcomes. On the rare matters that have 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.
- 2.8 The rate of receipt for Public Liability (PL) claims has settled in recent years to a reasonably predictable pattern and cost. However 2013/14 saw the start of a new era of claims regulation, the longer term effects of which are not yet fully known. Whilst the majority of claims relate to simple 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 inappropriate removal.

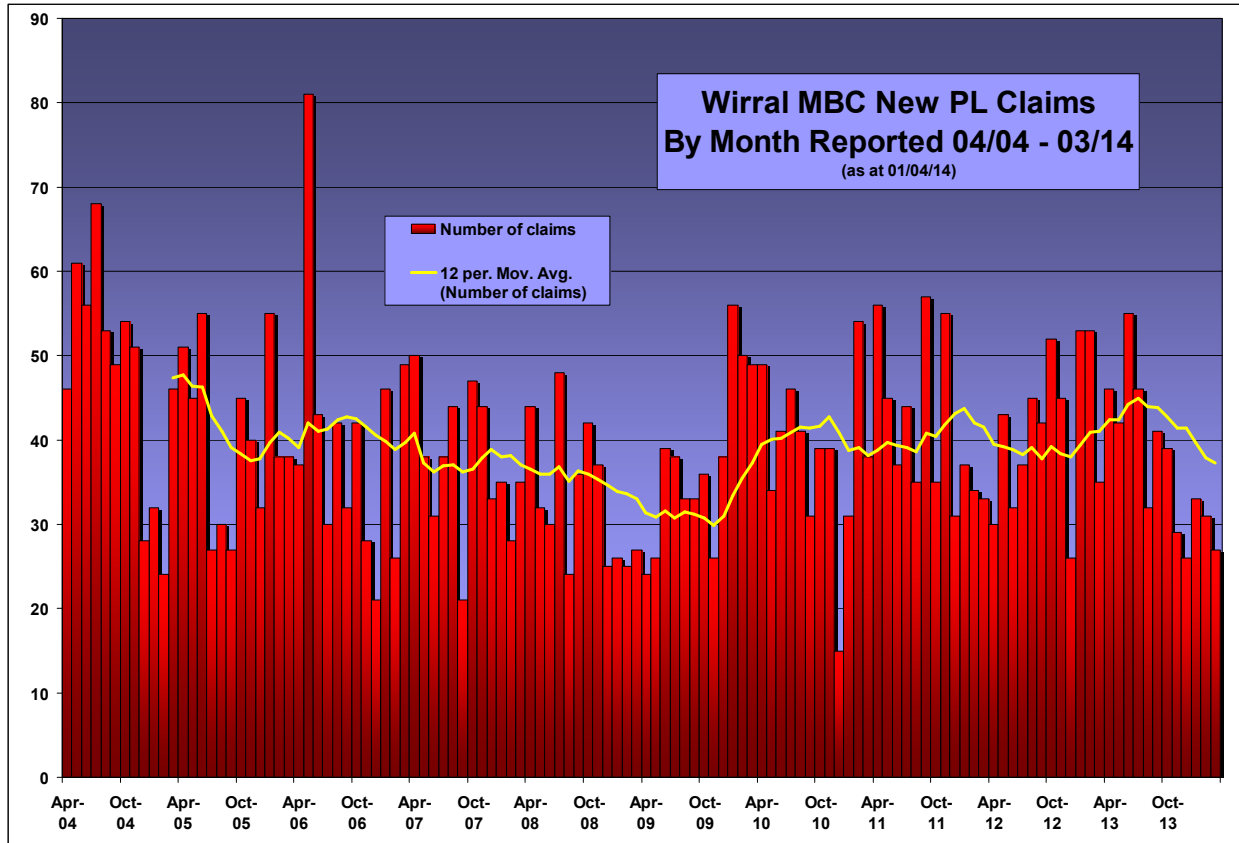
Table 1 : New Public Liability claims received in 2012/13 and 2013/14

Function	2012/13	2013/14
Highways	435	373
Children & Young People	19	19
Leisure	32	47
Other	6	6
Total	492	445

- 2.9 The following charts provide further detail for Public Liability claims with Chart 1 based on the date that the claim was received to indicate the rate of receipt of claims and Chart 2 the date of accident has been used to show payments and reserves as per policy years. Whilst these charts do not directly correspond this best illustrates the account performance. If Members require claims data in any other format it can be provided.

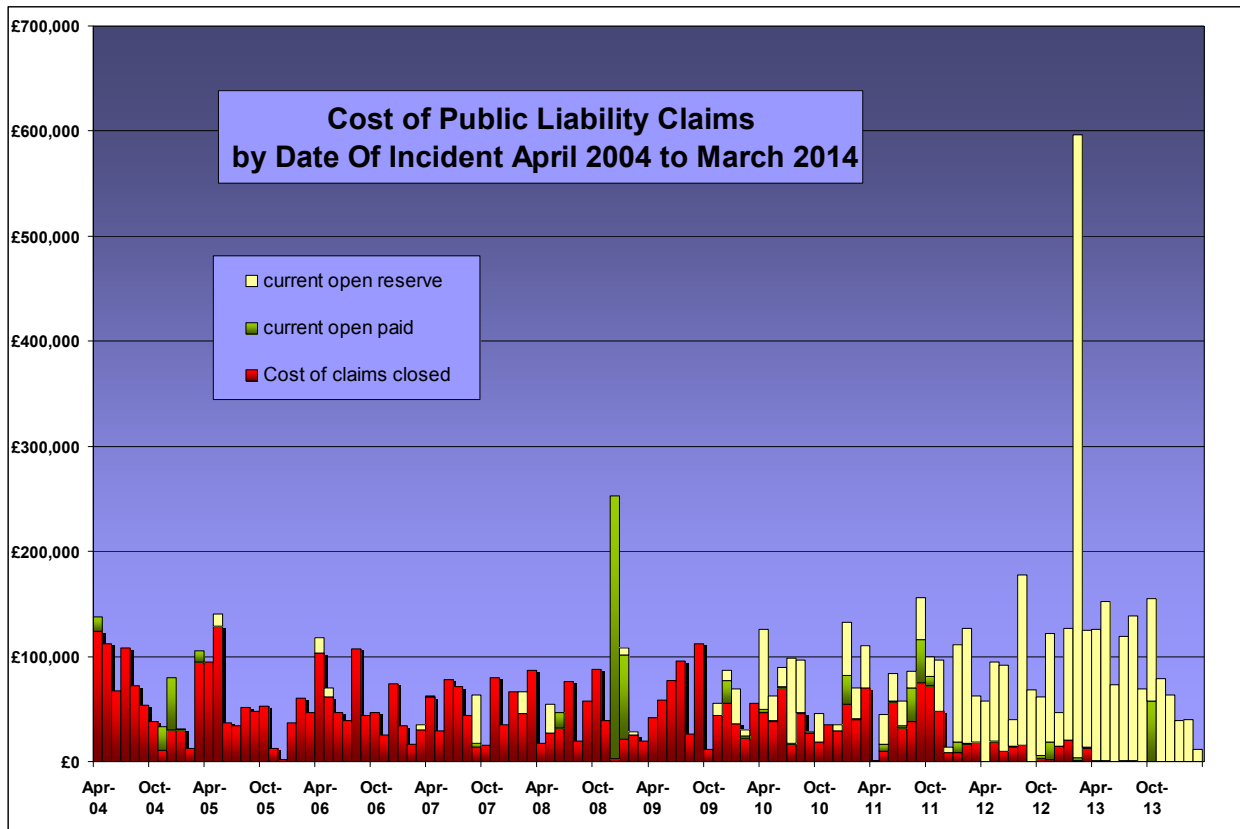
2.10 Chart 1 provides some context as it shows the pattern of receipt of Public Liability claims over a 10 year period. Whilst risk management activity can control the outcome of PL claims, the frequency of receipt is influenced by many factors over which the Council has little influence. Dominant factors will include the incidence of severe weather, claims farming activity and the prevailing propensity to claim within the populace.

Chart 1 : Number of new PL claims reported each month



2.11 Chart 2 indicates the expected final costs of known public liability 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 chart does not incorporate any element 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 £1 million per year. However, as noted elsewhere within this report, the recent civil justice developments have increased the level of uncertainty in this prediction. The obvious anomaly showing within the data for February 2013 demonstrates 2 separate claims each of which have the potential to breach the £250k deductible.

Chart 2 : Cost of claims by date of incident.



2.12 Following a substantial rise in the number of Employers Liability (EL) claims received in 2011/12 (63) the volume reduced to in 2012/13 (48) and has remained stable in 2013/14 with 47 new cases that are currently reserved (inclusive of costs) at £462k. The overall reserve for known EL claims was £1,089,146 at 31/03/14. Although the frequency is down from the peak, the figure remains high in comparison with the long term average. In recent years much of the EL growth has resulted from vibration and noise related claims from Parks employees. The trend of increasing frequency of industrial disease claims is repeated throughout the public sector and industry generally. The alleged causes of the new claims are noted within the table below.

Table 2 : New Employers Liability claims received in 2012/13 and 2013/14

Alleged Cause	2012/13	2013/14
Vibration	6	7
Noise	5	12
Asbestos	14	1
Slip, trip, trap, fall	17	18
Others inc assault, stress, harassment	6	9
Total	48	47

- 2.13 As EL claims generally take longer to settle the “tail” for this class of business is fatter. The Council frequently receives claims 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. During 2013/14 a claim was received alleging exposure with Birkenhead Corporation in the 1940’s. Wirral are also the designated claims handlers for employment claims attributable to the former Merseyside County Council. These cases are particularly difficult to handle due to the time-elapsed limiting documentation and evidence.
- 2.14 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 are trying to insist that a separate claim is recorded for each year within a long term policy period. With some alleged exposures spanning a 30 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 and Birkenhead Corporations).
- 2.15 As the complexity of individual EL cases continues to increase, it is also generally becoming more difficult to locate essential witnesses and documents. For historic cases this is not unexpected but the ongoing reorganisation and contraction within the Council can often make the location of evidence for even recent incidents difficult. The Risk & Insurance Team has strong technical capabilities but capacity is becoming a risk issue.

Property and Business Interruption

- 2.16 The Council self-insures to a maximum of £500,000 damage to property through fire and £1 million for damage to commercial properties and to schools 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 policy is subject to a Long Term Agreement until 29 June 2016 with options to extend for two further 12 month periods.
- 2.17 Although all property losses are reported to insurers minor claims are investigated and administered directly by Council. A loss adjuster would be appointed to investigate and report to insurers on larger losses (circa £30k plus). However the Council would still have a significant role in the managing any necessary reinstatement process and ensuring the optimum settlement is achieved from the insurer.

Motor

- 2.18 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. The policy was the subject of a competitive tender earlier this year won by the existing insurer Zurich Municipal. The new contract is on a Long Term Agreement until 31 March 2017 with an option to extend for a further 2 years.
- 2.19 The authority handles 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.
- 2.20 The reduction in vehicle numbers has been partly responsible for a significant 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, minibus assessment process and a more robust approach to the investigation of accidents and the management of claims are all elements of this approach.
- 2.21 Although claims numbers on the account are low whiplash claims remain a general concern. Officers will be participating in the debate on how these whiplash issues can be controlled in the current Ministry of Justice consultation.

Other Classes of Business

- 2.22 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 Team. Others (such as Money 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.

Review of Liability Reserves and Provisions

- 2.23 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.
- 2.24 To help ensure that the Fund is sufficient meet the cost of liability claims but is not over resourced reviews are undertaken every two to three 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.

- 2.25 The external review (Liability Claims Funding Study) commissioned to examine the liabilities incurred as at 31 March 2013 was reported to this Committee on 28 January 2014. In accord with Council practice a further self-evaluation of the sums required as at 31 March 2014 has been undertaken to inform this report.
- 2.26 The self-evaluation took as its starting point the figure recommended by the actuary as the provision required as at 31 March 2013. To this the actuary's recommended liability funding figure for 2013/14 was added and liability claims payments made during the year deducted (including an initial payment due under the MMI Scheme of Arrangement).
- 2.27 The evaluation indicated that a sum of £9,422,137 was required as at 31 March 2014 to meet outstanding liabilities:-

Table 3 : Insurance Fund Combined Liability Reserves

Combined Liability	At 31/03/13	At 31/03/14
	£	£
Provisions < 1 year Known liability claims that is expected to be utilised entirely within 2014/15	1,635,000	1,550,000
Provisions > 1 year Known liability claims where payment is expected to be made beyond the next year	4,077,973	4,278,326
Insured Liability Reserve Insured claims incurred but not yet received	2,198,925	2,157,619
Uninsured Liability Reserve Claims payments for periods of insurer insolvency or policy coverage deficiency	1,010,145	1,006,000
MMI reserve / provision Claims payments for periods of insurer insolvency or policy coverage deficiency)	497,582	430,192
Total liability reserves / provisions	9,419,625	9,422,137

- 2.28 The 'claw-back' clause in the Scheme of Arrangement for Municipal Mutual Insurance was triggered by the company's administrators during 2012/13. Whilst the Council is affected by this development, it is more fortunate than many in that the extent of its claw-back is less than that faced by others and this liability is fully funded as part of the Council's existing reserves. During 2013/14 an initial payment of £74,708 was made representing 15% of the historic liability under the claw-back arrangements. The Council is also facing contributing 15% to all future liability settlements attributable to the MMI period of insurance. Whilst this leaves an open ended liability officers are satisfied that current funding levels are adequate to manage this exposure.

Review of Other Reserves and Provisions

2.29 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 2014 in respect of these elements of the Fund.

Table 4 : Insurance Fund Other Reserves

Class	At 31/03/13	At 31/03/14
	£	£
Property	2,500,000	2,500,000
Motor	200,000	200,000
Wholly self-insured claims Eg plate glass and equipment	175,998	179,998
Civil Contingency For improvements in resilience	1,500,000	1,500,000
Professional Indemnity Excesses on Professional Indemnity claims any claims for uninsured services	50,000	50,000
Risk Management Support individual risk improvement initiatives	144,400	144,400
Claims Management Legal costs handling uninsured liability claims	150,000	150,000
Contaminated Land Uninsured liability claims for environmental impairment	500,000	750,000
Budget Surplus / Deficit Balance of Fund income v expenditure	108,722	82,993
Total	5,329,120	5,557,391

2.30 The report on the Liability Claims Funding Study presented to this Committee on 28 January 2014 estimated that there could be a surplus in the Insurance Fund as at 31 March 2014. The actual year end position of the Fund is a surplus of £83,000 with the following largely responsible for the change:-

- (i) £178,000 to increase the amount invested in the Liability Section of the Insurance Fund to the level proposed in the actuarial report.
- (ii) £250,000 to increase the provision for uninsured liabilities for environmental impairment. This facilitates the release of £2.5 million from the Community Fund back to the Council and to Magenta Living.
- (iii) The profile of liability claims payments in the final quarter of 2013/14 were significantly higher than the first three quarters. This meant that whole year costs for 2013/14 were ultimately £263,000 greater than the forecast at December 2013.

Members are requested to endorse the actions outlined in (i) and (ii) above.

- 2.31 Whilst the reserves and provisions within the Insurance Fund are clearly earmarked for specific purposes Members may take the view that the Council's financial position is such that some should be released to support General Fund balances. This decision would depend upon Members risk appetite as such a release could mean that the Fund had insufficient resources to meet its future liabilities.

Insurance and Risk Management 2013/14

- 2.32 Throughout 2013/14 progress reports on Risk and Insurance Management were presented to each meeting of the Audit & Risk Management Committee.

Claims Issues

- 2.33 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 (that resulted in a successful criminal prosecution this year) also contribute to this outcome. 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.
- 2.34 Management of Liability claims continued to require a substantial amount of work. Amongst the new cases were many complex and technically demanding claims. Whilst the Council continues to retain a good record in defending such cases this success requires a considerable ongoing investment of time.
- 2.35 The Council has continued to play a national role in relation to insurance issues and the ongoing reforms to civil litigation funding and costs. Wirral has established a reputation within the market as a leading authority on liability claims matters. One Wirral officer is a Director of Alarm, the Public Risk Management Association and, within this role, has established a body to provide a source of best practice and education and to formally represent the interests of the public sector in relation to liability and claims matters within the industry and with Central Government. This officer is regularly published within the industry journal and is a speaker at national claims events with expenses in relation to this work met by Alarm.

Services for Schools

- 2.36 The insurance facility for Academy Schools established in 2011/12 continued to prove very popular with schools which have taken the decision to convert. Schools are assisted with tendering to obtain competitive quotations for academy-specific insurance packages, the critical appraisal of policy wordings verifies all policy documentation provides support with claims and general risk management advice. The service generated income of approximately £32,500 in 2013/14 supporting Council insurance administration costs.

2.37 Wirral has been in the forefront of developments in the Academy Insurance sphere taking a lead national role in the critical review of the Department for Education (DfE) proposed Academy risk pooling arrangements. These developments could negatively impact both the quality of insurance protection available for these schools and the future fee income from Academies so the involvement aims to mitigate these impacts.

Budget

2.38 The Insurance Fund Budget 2014/15 was approved by Audit & Risk Management Committee on 28 January 2014. The report confirmed that the cost to the General Fund would be £207,000 less than the figure in the agreed Budget for 2013/14.

Insurance Management 2014/15 and beyond

2.39 Regular reports on the progress of Insurance and Risk Management will continue to be presented to the Audit and Risk Management Committee.

2.40 Table 5 : Key Insurance Management actions 2014/15

Action	Target Date
Negotiate annual renewal of Property and Business Interruption insurance	30 June 2014
Negotiate annual renewal of Marine Insurance contract	30 September 2014
Possible extension of the Casualty Computer and Civil Litigation contracts	30 September 2014
Compile the Insurance Fund Budget 2015/16	November 2014
Complete assessment of viability of creating a fully insured liability claims handling function (see 2.41)	30 September 2014
Confirm terms for the renewal of the Motor, Computer Engineering and Foster Care policies	March 2015

2.41 As the existing Long Term Agreement (LTA) for the Liability Insurance contracts expires on 31 March 2015 the Council has the option to either extend the contract (to 31 March 2017) or conduct a competitive tender exercise. Whilst a procurement exercise provides an opportunity to test the market (which appears to be currently moving against us) officers are currently exploring the merits of bringing the claims handling function fully in-house. As noted within 2.7 above, Wirral already controls the vast majority of claims and therefore has the technical capability to carry out this function but the issues are of administrative capacity and operational resilience. Such a change would be easier to introduce with an existing insurer and this issue would therefore be a factor in the decision to extend existing contracts. The recommended course of action with an explanation of the benefits and risks will be reported to this Committee in September.

3.0 RELEVANT RISKS

- 3.1 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 maintaining strong relationships with schools and ensuring that developments are known as early as possible.
- 3.2 All funding models used in the actuaries calculation of the probable funding requirement are based on historic exposures, claims and payments patterns. Although best actuarial practice has been utilised in the modelling, it is possible, through changes in the organisational risk profile or external environmental developments that the recommendations could subsequently prove to be inadequate or overstated. This risk is mitigated by ongoing reviews and statistical assessments.
- 3.3 The Council's Risk & Insurance function is reliant upon the specialist technical skills of a limited number of officers so capacity and capability are risks in the event of an increase in claims or a single long term absence.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 Funding could be maintained below actuary recommendations and resultant surplus returned to general fund but this would increase the risk of insufficient funding for future liabilities or losses.
- 4.2 The Environmental impairment reserve could be maintained at £500,000 but this would reduce the benefits from the associated release of the funding set-aside for Environmental Warranties within the Magenta Living / Wirral Council Community Fund.

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 direct implications arising 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 Fund Budget 2015/16 is to be presented to this committee in November.

8.0 LEGAL IMPLICATIONS

8.1 There are no direct implications arising from this report.

9.0 EQUALITIES IMPLICATIONS

9.1 There are no direct equalities implications arising from this report.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no carbon usage implications arising from this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no planning implications.

12.0 RECOMMENDATIONS

12.1 That the report, and actions in sections 2.30 (i) and 2.30 (ii), be agreed.

12.2 That the Insurance Fund Budget 2015/16 be prepared for presentation to this Committee in November.

13.0 REASONS FOR RECOMMENDATIONS

13.1 To maintain appropriate financial reserves within the Insurance Fund.

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

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SUBJECT HISTORY

Council Meeting	Date
Insurance Fund Annual Report - Cabinet	23 June 2011
Insurance Fund Budget 2012/13 - Cabinet	24 November 2011
Insurance Fund Annual Report - Cabinet	21 June 2012
Insurance Fund Budget 2013/14 - Cabinet	29 November 2012
Insurance Fund Annual Report - Audit & Risk Cttee	18 September 2013
Insurance Fund Budget 2014/15 - Audit & Risk Cttee	28 January 2014