



**AUDIT AND RISK MANAGEMENT COMMITTEE
MONDAY, 12 JUNE 2017**

REPORT TITLE:	INSURANCE FUND ANNUAL REPORT 2016/17
REPORT OF:	ASSISTANT DIRECTOR: FINANCE

REPORT SUMMARY

This report provides a review of Risk and Insurance activity during 2016/17 and the plans for 2017/18 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 2016/17 are confirmed.

RECOMMENDATION/S

That Committee endorse the release of monies from the Insurance Fund to the General Fund indicated in paragraph 3.43.

That the Insurance Fund Budget 2018/19 be prepared for presentation to this committee in January 2018.

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 excess of reserves on the Property and Liability classes of business 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. 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 Protector Insurance. 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 the Council had been trialling the self-handling of self-represented (no solicitor involvement) Liability claims involving low value property damage. The trial proved successful and the new contract was let on the basis that the Council would continue to self-handle low value property damage where no solicitor was involved. This has meant that the lower claims handling costs achieved in 2016/17 will continue. During 2016/17 36 claims were handled by the Risk and Insurance team. As at 31 March 2017 15 of these claims remained open. Of the 21 which had been closed liability was denied in 17 cases. The total amount paid for the 4 files which were closed with a payment was £1,075.
- 3.9 A large proportion of claims are still administered by both the former insurer Zurich Municipal and the new 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 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 did consider the relative merits of increasing this limit to £350,000 as part of the procurement of the Liability insurance contract. However the reduction in premium offered by competing insurers was outweighed by the additional claims which the Council would have to meet and so the self-insured retention per claim remains at £250,000.

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. A further extension of fixed costs in personal injury claims and an increase in the small claims limit are contained in the Prisons and Courts Bill. These changes have the potential to further reduce the average cost per claim for the Council. Whilst the Bill was not brought into law before Parliament was dissolved for the General Election it is thought that it will be brought back later in 2017.

Public Liability Claims Statistics

3.12 The rate of receipt of new Public Liability (PL) claims has continued to fall. During 2016/17 a total of 228 new claims were received. This was a 37% reduction over 2015/16 and a cumulative 53% 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

	Number of new Public Liability Claims Received within year				
	2012/13	2013/14	2014/15	2015/16	2016/17
Highway Claims	435	373	319	324	204
Other	55	72	71	39	24
Total Claims	490	445	390	363	228
Year on Year	n/a	- 9%	- 12%	- 7%	-37%

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 2016/17 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 Individual claims can take many years to settle. A portfolio of approximately 300 open public liability files with a potential combined value circa £2.9m is currently being managed.

Employers Liability Claims Statistics

- 3.16 The number of Employers Liability (EL) claims received in 2016/17 fell markedly to a total of 18. 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 2016/17. 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					
	2012/13	2013/14	2014/15	2015/16	2016/17
Vibration	6	7	6	6	2
Noise (NIHL)	6	15	5	11	5
Asbestos	0	1	0	2	0
Slip / trip / trap / fall	11	18	12	5	7
Others including assault / stress and harassment	22	9	13	11	4
Total for year	55	50	36	35	18

- 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) 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 31/03/17 across 52 current live files (excludes multiple registrations for account years).
- 3.20 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 can be impacted by this position.
- 3.21 The management of Liability claims continues to occupy a substantial amount of the risk and insurance resource. Again in 2016/17 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.

Property and Business Interruption

- 3.23 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. These contracts expire on 29 June 2018 requiring a competitive tender exercise to be conducted in the current financial year.
- 3.24 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.

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

Year	Number	Paid to Date	Outstanding	Total
2012/13	16	£ 31,508	£ 0	£ 31,508
2013/14	17	£ 30,529	£ 0	£ 30,529
2014/15	13	£ 73,259	£ 17,380	£ 90,639
2015/16	13	£101,205	£ 0	£ 101,205
2016/17 *	13	£ 22,912	£ 18,037	£ 40,949

* Part year figures (as at 26 May 2017)

Motor

3.26 The Council self-insures to a maximum £208,900 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. As reported previously the Long Term Agreement on this contract has been extended until 31 March 2019.

3.27 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.

3.28 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, 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.

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

Year	Number	Paid to Date	Outstanding	Total
2012/13	42	£91,963	£ 8,331	£100,294
2013/14	32	£50,369	£ 0	£ 50,369
2014/15	43	£32,297	£ 0	£ 32,297
2015/16	38	£34,623	£40,799	£ 75,422
2016/17	28	£24,713	£20,720	£45,433

Other Classes of Business

3.30 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

3.31 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.

3.32 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.

3.33 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.

3.34 The output from the last external review to be commissioned was reported to this committee on 28 January 2014. As in 2015/16 a further detailed in house evaluation of the sums required as at 31 March 2017 has been undertaken to inform this report.

3.35 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 2015/16 and 2016/17. 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 considered by officers using their knowledge of the Council's Liability account. Officers are content that current funding levels are likely to lie within the upper range of certainty from an externally commissioned actuarial report.

3.36 This exercise indicated that a sum of £7,762,679 was required as at 31 March 2017 to meet outstanding liabilities as per the right hand column of the following table.

Combined Liability	Position as at 01/04/2016 £	Funds Available at 31/03/2017 £	Calculated Requirement at 31/03/17 £
Provisions < 1 year (275 x IF028 provision for known liability claims that is expected to be utilised entirely within 2016/17)	1,300,000	1,300,000	1,000,000
Provisions > 1 year (276x IF028 provision for known liability claims where payment is expected to be made beyond the next year)	2,449,671	2,449,671	2,195,381
Insured Liability Reserve (475x IF028 reserve for insured claims incurred but not yet received, or claims received but insufficiently reserved)	4,003,424	4,662,918	3,162,918
Uninsured Liability Reserve (475x IF056 reserve to cover claims payments for periods of insurer insolvency or policy coverage deficiency)	1,000,000	997,488	1,000,000
MMI reserve / provision (475x IF022 + 275x IF022 reserve to cover claims payments for periods of insurer insolvency or policy coverage deficiency)	430,192	380,088	404,380
Total liability reserves / provisions	9,183,287	9,790,165	7,762,679

3.37 It will be noted that as at 31 March 2017 the Fund held significantly greater funds than required to meet its commitments in relation to Liability claims. Given the high opportunity cost of retaining excess funding I have arranged for £2m to be released from the Liability reserves and provisions to General Fund balances.

3.38 However I have also taken the opportunity to use in year surpluses on other classes of insurance business written by the Insurance Fund to give one off additional funding of £350,000 to provide additional contingency for unforeseen claims. This will increase the Insured Liability Reserve to £3,512,918.

3.39 As reported in my last Insurance Fund Annual Report the administrators of the MMI Scheme of Arrangement announced in March 2016 that a further payment of £49,805 would be required from the authority and that it would be responsible for 25% of all liability claims settlements made on or after 1 April 2016. That payment and contributions to 2 claims settlements explain the reduction in available funds at 31 March 2017. Wirral remains considerably less affected by these changes than other authorities and officers remain satisfied that current funding levels are adequate to manage the exposure.

3.40 The last formal actuarial study of the Council reserves and provisions for Liability claims was undertaken on claims data at 31 March 2013. I consider that it would be prudent to commission a further study based on claims data at 31 March 2017 and am making arrangements to do so. This study will help to inform the level of contribution to the Insurance Fund in 2018/19 and beyond. It will also assist with the review of reserves and provisions needed at the end of the current financial year.

Review of Other Reserves and Provisions

3.41 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.

Class	Position as at 01/04/16	Sum Held as at 31/03/17	Sum Required at 31/03/17
	£	£	£
Property (IF020)	2,500,000	2,500,000	2,000,000
Motor (IF018)	200,000	200,000	200,000
Wholly self-insured claims (PFI plate glass equipment money marine) (IF051, IF053, IF103, IF104)	173,648	131,220	131,220
Fidelity Fund (IF105)	30,000	31,500	31,500
Civil Contingency (funds improvements in resilience to service disruption) (IF021)	1,500,000	1,500,000	1,500,000

Professional Indemnity (funds excesses on Professional Indemnity claims any claims for uninsured services.) (IF046)	50,000	50,000	50,000
Risk Management (supports individual risk improvement initiatives) (IF024)	150,000	150,000	150,000
Claims Management (funds the legal costs of handling uninsured liability claims) (IF047)	150,300	161,373	161,373
Contaminated Land (funds uninsured liability claims for environmental impairment) (IF023)	750,000	750,000	750,000
Budget Surplus / Deficit (balance of Fund income v expenditure) (IF052)	82,993	69,976	69,976
Total	5,586,941	5,544,069	5,044,069

3.42 The Reserve for Property claims has been held at a level which provides near full funding for Council's maximum possible self-insured retention for both material damage and business interruption losses in any one year for both fire and other perils. Based on the Council's previous loss experience such a situation is very unlikely to occur. As such I have arranged to return £500,000 of this reserve to general fund balances in 2016/17.

3.43 The closedown of the Insurance Fund accounts for 2016/17 and review / amendment of the reserves and provisions held within it therefore resulted in the following key actions.

- (i) **The release of £2m from the provision and reserve for Liability claims to the General Fund.**
- (ii) **The release of £500,000 from the reserve for Property claims to the General Fund**

3.44 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 2016/17

- 3.45 Throughout 2016/17 regular progress reports on Risk and Insurance Management were presented to this Committee.

Services for Schools

- 3.46 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 £33,500 in 2016/17. This helped to offset the Council's own insurance administration costs.
- 3.47 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 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

- 3.48 The Insurance Fund Budget 2017/18 was approved by Audit & Risk Management Committee on 30 January 2017. The report confirmed that the cost to the General Fund would be £75,000 less than the Budget for 2016/17.

Insurance Management 2017/18 and beyond

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

Task	Target Date
Negotiate annual renewal of Property, Business Interruption, Museums, Marine Liability and Personal Accident / Business Travel policies	30 June 2017
Compile the Insurance Fund Budget 2018/19	January 2018
Negotiate annual renewal of the Casualty, Motor, Engineering, Foster Care and Computer policies.	March 2018
Undertake competitive tender for the Council's Property, Business Interruption, Crime, Museums and Personal Accident / Business Travel insurance	March 2018

4.0 FINANCIAL IMPLICATIONS

- 4.1 The performance of the Insurance Fund has enabled £2.5m to be released to General Fund balances in 2016/17.
- 4.2 The need to remarket the Property, Business Interruption, Crime, Museums and Personal Accident / Business Travel insurance contracts creates uncertainty around the cost of these contracts in 2018/19 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 large components of the Council's insurance programme 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.
- 7.2 Tendering the Property, Business Interruption, Crime, Museums and Personal Accident / Business Travel insurance contracts indicated in paragraph 3.48 could result in the Council facing higher premiums than at present. Although an increase in competition for such risks particularly Property in recent years should help to mitigate this. Officers will also work to create the maximum interest in and competition for these contracts.
- 7.3. As indicated in paragraph 3.45 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	
Insurance Fund Annual Report	13 June 2016
Insurance Fund Annual Report	8 June 2015
Insurance Fund Annual Report	23 June 2014
Insurance Fund Annual Report	18 September 2013