
Report To:	Policy & Resources Committee	Date:	14 November 2017
Report By:	Chief Financial Officer	Report No:	FIN/95/17/AP/KJ
Contact Officer:	Alan Puckrin	Contact No:	01475 712223
Subject:	Insurance Fund Position as at 30 September 2017		

1.0 PURPOSE

- 1.1 The purpose of this report is to advise the Committee of the position of the Council's Insurance Fund as at 30 September 2017, to highlight any relevant issues and to request that delegated authority be given to the Head of Legal and Property Services to accept the tenders as per Contract Standing Order 17.3 (ii).

2.0 SUMMARY

- 2.1 The number of insurance claims received for 2016/17 was lower than for 2015/16 largely due to a reduction in the number of public liability claims (although these claims can arise after the year in which the incident occurred). The number of claims has fallen year-on-year over the last 5 years.
- 2.2 As at 30 September 2017 the Insurance Fund had a balance of £4.490 million which is £0.266 million higher than the previous year. The movement is due to contributions to the Insurance Fund exceeding charges to the Fund in year for insurance claims.
- 2.3 Estimated liabilities on claims outstanding at 30 September 2017 are £1.319 million with a provision for clawback on Municipal Mutual Insurance (MMI) claims having been made of £0.366 million leaving a balance for future claims of £2.805 million.
- 2.4 The Insurance Fund will be affected by 2 major changes that have come into force:
- The removal of the 3 year time bar on claims for child abuse which extends the period for such claims to include abuse suffered on or after 26 September 1964
 - The amendment to the interest rate used in the calculation of compensation payments for personal injury claims from 2.5% to -0.75% in March 2017 (which will increase the level of payments for claimants from claims requiring longer term care).
- 2.5 The Council are currently in the final year of the insurance contracts with its insurers. Potential Insurance providers will react to prevailing market conditions at the time of tender and build a level of risk into their tender bids that cover unknown fluctuations in market conditions. In order to avoid large risk percentages being built into the prices offered by tenderers it is better to tender as close to the end of the current contracts as possible. This leaves less time in the tendering process to bring the tender results back to Committee for approval prior to the award of contracts. As such it is advantageous at this time to seek delegated authority for the Head of Legal and Property Services to accept the tenders as per Contract Standing Order 17.3 (ii).

3.0 RECOMMENDATIONS

It is recommended that the Committee:-

- 3.1 Note the contents of this report and the Insurance Fund position as at 30 September 2017.

- 3.2 Approves the issuing of tenders to procure insurance and claims handling services for the period from 1 October 2018 to 30 September 2023. The basis of the contract will be determined in discussion with the Council's insurance brokers.
- 3.3 Grants delegated authority to the Head of Legal and Property to accept the tenders as per Contract Standing Orders 17.3 (ii).

Alan Puckrin
Chief Financial Officer

4.0 BACKGROUND

- 4.1 The Council's Insurance Strategy involves purchasing insurance for some types/levels of risks but also self-insuring for other risks by setting aside monies in an Insurance Fund.
- 4.2 The Strategy was approved at the September 2003 meeting of the Corporate Business Committee following a review of available options by the officers of the Council and also on advice from the Council's Insurance Brokers. This approach has delivered significant savings in both external premiums and internal recharges.

5.0 2016/17 PERFORMANCE

- 5.1 The overall insurance picture for 2016/17 has, so far, seen a decrease in the number of claims received compared to 2015/16. As can be seen in Appendix A, the Council has so far received 143 claims for the 12 month period which is a 28.9% decrease on claims received to date for insurance year 2015/16. The decrease is largely due to fewer motor vehicle claims for Council vehicles. It should, however, be noted that claims relating to a year can be made in future years.
- 5.2 Last year the report showed 1,467 claims for the previous 5 insurance years (2011/12-2015/16) whereas Appendix A shows 1,222 claims when the position is moved forward a year (for 2012/13-2016/17), showing a reduction of 245 claims or 16.7% on the 5 year rolling basis.
- 5.3 The Fund balance increased by £266,100 during the year to 30 September 2017 due to contributions to the Insurance Fund exceeding the charges for insurance claims in year. The estimated outstanding liabilities have reduced from £1.489 million last year to £1.319 million this year.
- 5.4 In addition, part of the Fund has been set aside as a provision for the potential future clawback of claims relating to MMI. Further background to this issue is given in paragraph 6.3. When the estimated liabilities and the provision for the MMI clawback are taken into consideration, there is a balance of £2.805 million in the Fund for future claims as at 30 September 2017.
- 5.5 The Fund is the subject of an actuarial review every 3 years with the latest review having been undertaken in 2015/16. The review concluded that, whilst the Council currently has slightly more in the Fund than the Actuary considers to be prudent, not enough was being put into the Fund on an ongoing annual basis. Additional contributions were made to the Fund in 2016/17 but it may be that further increases are required in future years.
- 5.6 As advised above, the Committee should note that some insurance claims may appear several years after the period to which they relate and that the claims paid in a year do not relate solely to the claims arising in that year but also cover some claims arising for previous years. The current balance on the Fund ensures that the self-insurance position remains the correct approach.

- 5.7 Appendix B shows that payments made by the Council's External Insurers continue to be significantly less than the premium paid although there are estimated outstanding liabilities to be borne by the Insurers of over £148,000 relating to ongoing claims.

Factors affecting the premiums charged and the claims payments by Insurers include:

- (a) For Property Insurance the Insurers are effectively providing cover for the loss of a major asset and it is hoped by both parties that the Insurer will never be asked to pay out against this policy.
- (b) For Liability Insurance the Insurers deal with the longer-tailed claims such as Employer's Liability and Public Liability claims that take longer to be generated and finalised.

- 5.8 High volume, low value claims for public liability continue to be dealt with in-house, whilst the Insurers deal with all other claims.

- 5.9 One area of particular interest relates to claims arising from road or pathway defects. The claim statistics for the last 3 insurance years are as follows:

Insurance Year	No. of Claims	% of Total Claims For Year	Claims Rejected/ Dropped	Claims Paid		Claims Outstanding	
				No. of Claims	Actual Cost of Claims	No. of Claims	Amounts Claimed **
					£000		£000
2014/15	102	45.1%	83	15	20	4	198
2015/16	63	31.3%	40	11	36	12	156
2016/17	66	46.8%	13	9	2	44	215

** These amounts are subject to review as claims progress through the insurance process but are likely to reduce.

It should be noted that, whilst some claims can be resolved relatively quickly, the legal processes for dealing with claims can result in some claims taking some time to resolve.

6.0 OTHER ISSUES

- 6.1 There are ongoing issues on 4 areas affecting the Council's insurance position:

- a. Pleural Plaques
- b. Municipal Mutual Insurance (MMI)
- c. Child Abuse Claims
- d. Personal Injury Claims – Interest Rate.

6.2 Pleural Plaques

The Damages (Asbestos-related Conditions) (Scotland) Act 2009 provides that asbestos-related and certain other asymptomatic asbestos-related conditions are compensable in Scotland if it can be established that the conditions were caused by negligent asbestos exposure. The insurance industry challenged the legal validity of the Act but failed at the Supreme Court in October 2011. As advised in previous years, it is expected that the Act will result in additional claims and costs to be borne by insurers although the impact is still unknown. The Council and its insurers are currently dealing with 4 claims relating to pleural plaques.

6.3 MMI

MMI is a former insurer which provided insurance primarily to local authorities. As a result of financial difficulties, MMI ceased to write new insurance business in September 1992 and "went into run-off" i.e. it continues but only to pay any claims that were outstanding or any claims that have arisen/may arise.

This “run-off” involved the establishment of a “Scheme of Arrangement” under which each local authority involved essentially assumed an element of mutual ownership of the company to manage the transition. When the Scheme was established it was believed that the company had sufficient resources to meet all existing liabilities and potentially provide a final distribution to participating local authorities of any residual surplus.

MMI do not have sufficient funds to meet the cost of any new claims so, from 1 January 2014, they are only paying a percentage of the cost of claims and any claims paid prior to that date under the Scheme of Arrangement are subject to clawback (there being no underwriting or reinsurance to cover this situation). The balance of the cost of claims and the amount of the clawback is impacting on a large number of local authorities throughout the UK, including Inverclyde, who are part of the Scheme of Arrangement.

The percentage of claims being paid by MMI was set at 85% (with 15% payable by the Council). From 1 April 2016 MMI are now paying 75% meaning that the percentage payable by the Council has increased to 25%. The Council has included an allowance for these claims and any clawback and continues to monitor and revise that allowance using the latest information from MMI.

6.4 Child Abuse Claims

On 4 October 2017, the Limitation (Childhood Abuse) (Scotland) Act 2017 came into effect. The Act removes the 3 year time bar on claims for child abuse meaning that claims can now be made for abuse suffered on or after 26 September 1964.

It is unclear how many claims will now be forthcoming to local authorities and other organisations, the cost of those claims, and who will bear those costs (whether former insurers/their successors or current local authorities/organisations as successors to authorities/organisations who provided child care services from 1964 onwards).

Given the uncertainties, it is possible that the Council could receive claims and that there could therefore be an impact on the Insurance Fund (and also on costs to be borne by the insurers) although the extent of any impact is unknown.

6.5 Personal Injury Claims – Interest Rate

In March 2017 the interest rate used in the calculation of compensation payments for longer term personal injury claims was reduced from 2.5% to -0.75%. The rate used previously assumed that a claimant could invest their compensation and receive interest on that sum (thereby reducing the amount of compensation that they would initially receive for their claim). The change to a negative interest rate means that compensation payments to claimants from claims requiring longer term care will increase. Whilst the UK Government has indicated that it may review the interest rate, at present it is resulting in increased premiums.

7.0 THE YEAR AHEAD

- 7.1 Officers within Finance Services will continue to monitor the performance of the Insurance Strategy closely and will continue to present reports to Committee no less frequently than annually.
- 7.2 The Council is now in the final year of the contracts with its insurers. It is proposed to undertake a tendering exercise to procure insurance and claims handling services for the period from 1 October 2018 to 30 September 2023 with the basis of the contract (e.g. 5 years or 3+1+1 years) to be determined in discussion with the Council’s insurance brokers. Approval is being sought from the Committee to undertake and conclude the tendering exercise with the costs of the insurance to be borne from the Council’s Revenue Budget.

8.0 IMPLICATIONS

8.1 Legal

None.

8.2 Financial

The Fund balance as at 30 September 2017 was £4.490 million which is £266,100 higher than the previous year.

One off Costs:

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement from	Other Comments
None					

Annually Recurring Costs/(Savings):

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement from	Other Comments
None					

8.3 Human Resources

None.

8.4 Equalities

None.

9.0 CONSULTATIONS

9.1 None.

10.0 LIST OF BACKGROUND PAPERS

10.1 None.

Appendix A

Insurance Fund Financial Summary - Insurance Years 2015/16 - 2016/17

	Insurance Years		
	2015/2016 (1 Oct 2015 - 30 Sept 2016) £	2016/2017 (1 Oct 2016 - 30 Sept 2017) £	
<u>Fund Income in Year</u>			
Total Contributed to the Fund	450,000.00	575,000.00	
Internal Resources Interest	12,283.74	10,714.08	
	462,283.74	585,714.08	A
<u>Fund Expenditure in Year</u>			
Risk Management	5,000.00	5,000.00	
Actuarial/Property Revaluation Costs	41,875.00	3,000.00	
	46,875.00	8,000.00	
Incurred Charges to the Fund in Year	499,093.21	311,648.23	
	545,968.21	319,648.23	B
Net Surplus/(Deficit) on Fund in Year	(83,684.47)	266,065.85	C=A-B
<hr/>			
<u>Fund Balance</u>			
Balance As At Start of Year	4,307,175.32	4,223,490.85	D
Add:			
Net Surplus/(Deficit) on Fund in Year	(83,684.47)	266,065.85	C
Actual Fund Balance At End of Year	4,223,490.85	4,489,556.70	E=D+C
Less:			
Estimated Outstanding Charges on Fund	1,488,627.94	1,318,549.19	F
Provision for Clawback for MMI Claims	392,557.00	366,409.00	G
Balance for Future Years Claims At End of Year	2,342,305.91	2,804,598.51	H=E-F-G

Claims Information For Last 5 Insurance Years

(This information is for the number of claims received analysed by the year to which the claim relates)

	No. of Claims Received For Year	No. of Claims Settled/Resolved	No. of Claims Outstanding	Estimated Outstanding Charges On Insurance Fund £
2012/13	349	342	7	128,057.10
2013/14	303	294	9	132,931.00
2014/15	226	213	13	291,237.56
2015/16	201	160	41	452,509.69
2016/17	143	56	87	237,474.96
	1,222	1,065	157	1,242,210.31
Claims Pre-2012/13			6	76,338.88
TOTALS			163	1,318,549.19

Of the claims outstanding 20 relate to Motor Vehicle claims, none of which are payable by the Insurance Fund.

Insurance Premiums/Payments By Insurers

	Insurer	Policy Excess 2016/2017	Responsibility for Policy Excess	Insurance Year 2016/2017		Insurance Year 2015/2016		Insurance Year 2014/2015		Insurance Year 2013/2014		
				Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	
				£	£	£	£	£	£	£	£	
Property Policies												
General Properties	Zurich Municipal	£1m	Note 1									
Education Properties	Zurich Municipal	£1m	Note 1									
Professional Fees (First Loss)	Zurich Municipal	£1m	Note 1									
Removal of Debris (First Loss)	Zurich Municipal	£1m	Note 1	64,740.29	121,733.16	6,143.75	121,335.11	2,831.23	118,866.24	162,918.80	124,699.98	
Money	Zurich Municipal	£500	Note 2									
Business Interruption:-												
- Gross Revenue	Zurich Municipal		Note 1									
- Additional Expenditure	Zurich Municipal		Note 1									
All Risks	Zurich Municipal	Various	Note 1									
Industrial/Commercial Property	Zurich Municipal	£250/ £1,000 for subsidence	Note 2									
Museum & Fine Art	Zurich Municipal	£1,000	Note 3	0.00	14,234.67	1,150.00	14,866.58	0.00	14,431.92	0.00	10,662.02	
Casualty Policies (Excl Claims Handling)												
Public Liability	Zurich Municipal	£52,848	Note 3									
Employers Liability	Zurich Municipal	£52,848	Note 3	0.00	225,889.02	7,554.90	197,038.10	117,249.49	182,463.20	9,507.65	190,526.41	
Officials Indemnity	Zurich Municipal	£52,848	Note 3									
Libel & Slander	Zurich Municipal	---	Note 3	0.00	2,115.49	0.00	2,038.56	0.00	2,038.56	0.00	2,038.56	
Professional Negligence	Zurich Municipal	Various	---	0.00	7,444.25	0.00	7,173.55	0.00	6,545.50	0.00	6,545.50	
Other Policies												
Motor (Excl Claims Handling)	RMP/QBE	£50,000	Note 4	1,986.03	86,328.00	39,556.32	80,136.00	6,892.99	78,609.60	18,588.63	88,912.80	
Fidelity Guarantee	RMP/QBE	£10,000	Note 3	0.00	24,581.70	0.00	23,687.82	0.00	23,687.82	0.00	23,687.82	
Work In Progress (Cont. All Risks)	Zurich Municipal	£1,000	Note 2	14,129.47	13,307.28	0.00	15,512.47	0.00	15,631.62	18,532.40	14,875.45	
Contractors Plant	Zurich Municipal	£500	Note 2	0.00	4,467.38	1,180.00	4,304.93	0.00	4,304.93	0.00	9,695.85	
Engineering Insurance	RMP/ HSB	---	---	0.00	3,423.79	0.00	2,584.68	0.00	2,691.66	0.00	2,713.60	
Public Health Act	Zurich Municipal	---	---	0.00	1,469.57	0.00	1,239.18	0.00	1,244.85	0.00	1,205.57	
Computer	RMP/HSB	£5,000	Note 5	0.00	6,655.30	0.00	7,547.48	0.00	7,472.75	0.00	6,974.80	
Hirers Liability	Zurich Municipal	£100	Note 2	0.00	261.25	0.00	251.75	0.00	251.75	0.00	251.75	
School Journey	Zurich Municipal	Various	Note 2	851.69	6,533.18	2,917.55	6,295.61	895.00	5,995.47	14,304.03	5,995.47	
Business Travel/PA	Zurich Municipal	Various	Note 2	0.00	5,839.20	0.00	5,742.56	0.00	5,417.51	0.00	5,532.88	
				81,707.48	524,283.24	58,502.52	489,754.38	127,868.71	469,653.38	223,851.51	494,318.46	

Estimated Outstanding Insurers' Liabilities for Current Claims:

£
148,076.00

Notes

- Note 1 - Insurance Fund (except for first £1,000 which is met by Service).
 Note 2 - Excess is met direct by Service.
 Note 3 - Insurance Fund.
 Note 4 - Insurance Fund (except for first £2,500 which is met by Service).
 Note 5 - Service pays excess of £1,000.