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<b>Report To:</b>	<b>Policy &amp; Resources Committee</b>	<b>Date:</b>	<b>13 November 2018</b>
<b>Report By:</b>	<b>Chief Financial Officer</b>	<b>Report No:</b>	<b>FIN/118/18/AP/KJ</b>
<b>Contact Officer:</b>	<b>Alan Puckrin</b>	<b>Contact No:</b>	<b>01475 712223</b>
<b>Subject:</b>	<b>Insurance Fund Position as at 30 September 2018</b>		

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### 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 2018 and to highlight any relevant issues.

### 2.0 SUMMARY

- 2.1 The number of insurance claims received for 2017/18 was lower than for 2016/17, 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 2018 the Insurance Fund had a balance of £4.653 million which is £0.163 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 2018 are £0.921 million with a provision for clawback on Municipal Mutual Insurance (MMI) claims having been made of £0.290 million leaving a balance for future claims of £3.442 million.
- 2.4 The Insurance Fund will be affected by 2 major changes advised in previous years:
- 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 Insurance Fund is the subject of an independent actuarial review every 3 years with the next review due in early 2019. The review will assess the financial position of the Fund and advise on the level of the annual contribution required to be made based on current and projected claims.
- 2.6 The Council's insurance contracts were due to end on 30 September 2018 and so the Council undertook a tendering exercise which has resulted in savings of around £130,000 per year in premium costs. The saving for financial year 2018/19 will be added to the Insurance Fund as an increased contribution, with the saving in future years being taken against the Council's Revenue budget.

### 3.0 RECOMMENDATION

- 3.1 It is recommended that the Committee notes the contents of this report and the Insurance Fund position as at 30 September 2018.

**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 2017/18 has, so far, seen a decrease in the number of claims received compared to 2016/17. As can be seen in Appendix A, the Council have so far received 146 claims for the 12 month period which is a 6.4% decrease on claims received to date for insurance year 2016/17. The decrease is largely due to fewer public liability claims. It should, however, be noted that claims relating to a year can be made in future years.
- 5.2 Last year, the report showed 1,222 claims for the previous 5 insurance years (2012/13-2016/17) whereas Appendix A shows 1,032 claims when the position is moved forward a year (for 2013/14-2017/18), showing a reduction of 190 claims or 15.5% on the 5 year rolling basis.
- 5.3 The Fund balance increased by £163,500 during the year to 30 September 2018 due to contributions to the Insurance Fund exceeding the charges for insurance claims in-year. The estimated outstanding liabilities have reduced from £1.319 million last year to £0.921 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 £3.441 million in the Fund for future claims as at 30 September 2018.
- 5.5 The Fund is the subject of an actuarial review every 3 years with the next review due this year. The review will assess the financial position of the Fund and advise on the level of the annual contribution required to be made based on current and projected claims.
- 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, with estimated outstanding liabilities to be borne by the Insurers of around £7,100 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
2015/16	63	31.0%	45	11	43	7	111
2016/17	75	48.1%	48	15	26	12	85
2017/18	70	47.9%	20	8	1	42	257

\*\* 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 The Council's insurance contracts were due to end on 30 September 2018 and so, as approved by the Committee in 2017, the Council undertook a tendering exercise which has resulted in savings of around £130,000 per year in premium costs.

The saving for financial year 2018/19 will be added to the Insurance Fund as an increased contribution, with the saving in future years being taken against the Council's Revenue budget.

- 6.2 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.

### 6.3 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 5 claims relating to pleural plaques.

#### 6.4 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 are impacting on a large number of local authorities throughout the UK, including Inverclyde, which are part of the Scheme of Arrangement.

The percentage of claims being paid by MMI is now 75% (with 25% payable by the Council). The Council has included an allowance for these claims and any clawback and continues to monitor and revise the allowance using the latest information from MMI.

#### 6.5 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.

#### 6.6 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. The UK Government is introducing proposals for future reviews of the interest rate.

### **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 appoints Loss Adjusters in relation to any individual Council property insurance claims where the repair cost is estimated at above £10,000. The Loss Adjusters assist in assessing the damage and the extent and cost of any repair work. The current contract ends on 31 March 2019 and so it is proposed to undertake a tendering exercise for this service.

## 8.0 IMPLICATIONS

### 8.1 Legal

None.

### 8.2 Financial

The Fund balance as at 30 September 2018 was £4.653 million which is £0.163 million higher than the previous year.

One off Costs:

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

Annually Recurring Costs/(Savings):

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

### 8.3 Human Resources

None.

### 8.4 Equalities

None.

### 8.5 Repopulation

None.

## 9.0 CONSULTATIONS

9.1 None.

## 10.0 LIST OF BACKGROUND PAPERS

10.1 None.

## Appendix A

### Insurance Fund Financial Summary - Insurance Years 2016/17 - 2017/18

	Insurance Years		
	2016/2017 (1 Oct 2016 - 30 Sept 2017) £	2017/2018 (1 Oct 2017 - 30 Sept 2018) £	
<u>Fund Income in Year</u>			
Total Contributed to the Fund	575,000.00	622,500.00	
Internal Resources Interest	10,714.08	14,565.13	
	<u>585,714.08</u>	<u>637,065.13</u>	A
<u>Fund Expenditure in Year</u>			
Risk Management	5,000.00	5,000.00	
Actuarial/Property Revaluation Costs	3,000.00	0.00	
	<u>8,000.00</u>	<u>5,000.00</u>	
Incurred Charges to the Fund in Year	311,648.23	468,588.79	
	<u>319,648.23</u>	<u>473,588.79</u>	B
Net Surplus/(Deficit) on Fund in Year	<u>266,065.85</u>	<u>163,476.34</u>	C=A-B
<hr/>			
<u>Fund Balance</u>			
Balance As At Start of Year	4,223,490.85	4,489,556.70	D
Add:			
Net Surplus/(Deficit) on Fund in Year	266,065.85	163,476.34	C
Actual Fund Balance At End of Year	<u>4,489,556.70</u>	<u>4,653,033.04</u>	E=D+C
Less:			
Estimated Outstanding Charges on Fund	1,318,549.19	921,067.73	F
Provision for Clawback for MMI Claims	366,409.00	290,074.00	G
Balance for Future Years Claims At End of Year	<u>2,804,598.51</u>	<u>3,441,891.31</u>	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 £
2013/14	301	297	4	21,491.27
2014/15	226	219	7	127,642.80
2015/16	203	190	13	148,402.00
2016/17	156	131	25	171,369.00
2017/18	146	62	84	356,781.31
	<u>1,032</u>	<u>899</u>	<u>133</u>	<u>825,686.38</u>
Claims Pre-2013/14			9	95,381.35
TOTALS			<u>142</u>	<u>921,067.73</u>

Of the claims outstanding 19 relate to Motor Vehicle claims, none of which are payable by the Insurance Fund.

## Insurance Premiums/Payments By Insurers

	Insurer	Policy Excess 2017/2018	Responsibility for Policy Excess	Insurance Year 2017/2018		Insurance Year 2016/2017		Insurance Year 2015/2016		Insurance Year 2014/2015	
				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)
				£	£	£	£	£	£	£	£
<b>Property Policies</b>											
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	15,167.94	126,583.78	64,740.29	121,733.16	6,143.75	121,335.11	2,831.23	118,866.24
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	11,538.50	0.00	14,234.67	1,150.00	14,866.58	0.00	14,431.92
<b>Casualty Policies (Excl Claims Handling)</b>											
Public Liability	Zurich Municipal	£52,848	Note 3								
Employers Liability	Zurich Municipal	£52,848	Note 3	48,536.96	252,901.99	0.00	225,889.02	7,554.90	197,038.10	117,249.49	182,463.20
Officials Indemnity	Zurich Municipal	£52,848	Note 3								
Libel & Slander	Zurich Municipal	---	Note 3	0.00	2,153.95	0.00	2,115.49	0.00	2,038.56	0.00	2,038.56
Professional Negligence	Zurich Municipal	Various	---	0.00	7,579.60	0.00	7,444.25	0.00	7,173.55	0.00	6,545.50
<b>Other Policies</b>											
Motor (Excl Claims Handling)	RMP/QBE	£50,000	Note 4	0.00	98,461.44	1,986.03	86,328.00	39,556.32	80,136.00	6,892.99	78,609.60
Fidelity Guarantee	RMP/QBE	£10,000	Note 3	0.00	25,028.64	0.00	24,581.70	0.00	23,687.82	0.00	23,687.82
Work In Progress (Cont. All Risks)	Zurich Municipal	£1,000	Note 2	984.00	13,316.36	14,129.47	13,307.28	0.00	15,512.47	0.00	15,631.62
Contractors Plant	Zurich Municipal	£500	Note 2	0.00	4,548.60	0.00	4,467.38	1,180.00	4,304.93	0.00	4,304.93
Engineering Insurance	RMP/HSB	---	---	0.00	3,486.04	0.00	3,423.79	0.00	2,584.68	0.00	2,691.66
Public Health Act	Zurich Municipal	---	---	0.00	1,335.99	0.00	1,469.57	0.00	1,239.18	0.00	1,244.85
Computer	RMP/HSB	£5,000	Note 5	0.00	7,099.59	0.00	6,655.30	0.00	7,547.48	0.00	7,472.75
Hirers Liability	Zurich Municipal	£100	Note 2	0.00	266.00	0.00	261.25	0.00	251.75	0.00	251.75
School Journey	Zurich Municipal	Various	Note 2	3,804.48	6,651.96	851.69	6,533.18	2,917.55	6,295.61	895.00	5,995.47
Business Travel/PA	Zurich Municipal	Various	Note 2	0.00	5,932.27	0.00	5,839.20	0.00	5,742.56	0.00	5,417.51
				<b>68,493.38</b>	<b>566,884.71</b>	<b>81,707.48</b>	<b>524,283.24</b>	<b>58,502.52</b>	<b>489,754.38</b>	<b>127,868.71</b>	<b>469,653.38</b>

Estimated Outstanding Insurers' Liabilities for Current Claims:  
£  
**7,069.00**

### 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.