

## Central Bedfordshire Council

### CORPORATE RESOURCES OVERVIEW & SCRUTINY COMMITTEE

Tuesday, 29 November 2016

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#### Insurance Arrangements

Report of Richard Wenham, Executive Member for Corporate Resources,  
([richard.wenham@centralbedfordshire.gov.uk](mailto:richard.wenham@centralbedfordshire.gov.uk))

Advising Officers: Charles Warboys, Chief Finance Officer  
[charles.warboys@centralbedfordshire.gov.uk](mailto:charles.warboys@centralbedfordshire.gov.uk) and Ralph Gould, Head of  
Financial Control, [ralph.gould@centralbedfordshire.gov.uk](mailto:ralph.gould@centralbedfordshire.gov.uk) Tel: 0300 300  
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#### Purpose of this report

1. To outline the Council's insurance arrangements and summarise the claims experience of both the Council and legacy authorities since 1 April 2009.

#### RECOMMENDATIONS

The Committee is asked to:

- 1. Review and comment on the Council's insurance arrangements and claims experience.**

#### Background

2. Local, Police and Fire Authorities used to routinely procure insurance policies from Municipal Mutual Insurance (MMI), a mutual incorporated by local authorities in 1903. Between 1990 and 1992 an escalation in claims caused MMI to enter a scheme of arrangement to pursue a solvent run-off with full payment of agreed claims. From 1992 all Councils needed to procure insurance policies from the commercial market and accept the risk of significant deductibles on many claims. Since 1992 Bedfordshire County Council, other legacy authorities and this Council have insured various risks with a number of different insurance companies. This Council continues to administer the outstanding and new insurance claims in respect of the three legacy authorities.

3. An organisation's insurance arrangements reflect a number of factors including any statutory requirements, the capacity to fund deductibles, the consideration of various risks and the availability of insurance products in the market. The Council's current insurance arrangements were contracted from 1 April 2014, following an OJEU tender process, with Long Term Agreements with a number of insurers allowing for commitments of up to 5 years. Table 1 below sets out the current insurers in place for the financial year ending 31 March 2017.

<b>Risk</b>	<b>Insurer</b>
Employers Liability	Aspen
Public Liability	Aspen
Products Liability	Aspen
Libel and Slander	Aspen
Official Indemnity	Aspen
Land Charges	Aspen
Professional Indemnity	Aspen
Pollution Liability	Aspen
Excess of Loss – Public, Products and Pollution	Thompson Heath and Bond Ltd
Fidelity Guarantee	Travelers
Social Housing	Zurich Municipal
General Property	Zurich Municipal
Educational Property	Zurich Municipal
Leasehold	Aspen
Commercial Property	Aspen
Business Interruption	Zurich Municipal
Motor Vehicles	Travelers

4. In total the cost of external insurance premiums, Insurance Premium Tax and claims handling in 2016/17 is £1.036m and includes insurance for both the Council and all the Maintained Schools, all of which opt into the arrangements. The annual overall cost of insurance to the Council will include both the deductible amounts, usually up to £100k per claim, for Liability and Material damage incidents in addition to the cost of premiums. Employers and Public Liability claims can materialise many years after the cause of the claim. A self insurance reserve is maintained to provide for losses within deductible limits.
5. All Claims arising under the Employers and Public Liability policies are handled by B4 Legal, an external claims handling company, whilst property damage claims within the £100,000 per claim deductible are managed in house by the Finance team. Significant property claims would be referred to the relevant insurer.

## Council Claim Volumes

6. The information below sets out the scale of insurance claims received by the Council. The vast majority of claims received are for damage or injury to third parties (Public Liability). The table below sets out the volumes of Public Liability claims received by CBC and their associated costs and is a snapshot based on benchmarking data submitted in May 2016 for the 5 years ended 31 March 2015 plus the two further financial years as at August 2016.

<b>CBC Public Liability Claims</b>						at Aug 16	at Aug 16
<b>Year</b>	<b>10 /11</b>	<b>11 /12</b>	<b>12 /13</b>	<b>13 /14</b>	<b>14 /15</b>	<b>15 /16</b>	<b>16 /17</b>
Total No. Claims	315	219	369	343	241	232	70
No. Closed Claims – Paid	47	37	73	44	45	40	0
No. Closed Claims – Repudiated	267	179	281	289	158	46	2
Estimated Cost of Open Claims (£'k)	45	74	244	254	303	370	135
Total Cost of Closed Claims (£'k)	185	324	335	110	70	29	0

7. The majority of Public Liability claims relate to the Highway authority function reflecting damage to property and/or injury. As can be seen from the table below, which sets out benchmarking data for 5 financial years at 31 March 2016, the majority of Highways related claims are repudiated. A well maintained highway network, appropriate inspection regimes, reasonable timescales to respond to defects and good record keeping are very important in responding to any claims arising from this source .

<b>Highways PL Claims</b>					
<b><i>Excludes 1 Claim over £250k</i></b>	<b>10/ 11</b>	<b>11/ 12</b>	<b>12/ 13</b>	<b>13/ 14</b>	<b>14/ 15</b>
Total No. Claims	240	142	284	267	146
No of Claims as a % of Total PL claims	76%	65%	77%	78%	61%
No. Closed Claims - Paid	34	27	53	30	29
No. Closed Claims - Repudiated	205	113	219	228	96
No Claims repudiated as % Highways claims	85%	80%	77%	85%	66%
Estimated Cost of Open Claims (£'k)	46	48	217	177	193
Total Cost of Closed Claims (£'k)	139	276	252	77	47

8. In the Council's existence since 2009 to date only 4 Public Liability claims exceed the £100k deductible (1 claim closed and 3 currently open with total payments made to date of £210,000) with a total cost of claim value (paid and outstanding) of £0.905m. Essentially the main Liability and Material damage policies are in place to minimise the financial impact of large claims on the Council.
9. All employers are required by the Employers' Liability (Compulsory Insurance) Act 1969 to insure with an authorised insurer against employee illness or injury. To date all claims have been in low numbers and below the deductible in respect of costs. As with the Highways authority claims good management practices, maintenance and training are important in minimising risks to employees. The majority of employee claims relate to slips, trips and falls. Total Employers Liability claims have been set out in the table below based on benchmarking data submitted in May 2016 for the 5 years ended 31 March 2015 plus the two further financial years as at August 2016.

<b>Employers Liability Claims</b>						at Aug 16	at Aug 16
	<b>10 /11</b>	<b>11 /12</b>	<b>12 / 13</b>	<b>13 /14</b>	<b>14 /15</b>	<b>15 /16</b>	<b>16 /17</b>
Total No. Claims	2	5	7	4	3	4	2
No. Closed Claims – Paid	1	0	1	2	0	0	0
No. Closed Claims – Repudiated	1	3	5	2	1	0	0
Estimated Cost of Open Claims (£'k)	0	74	23	0	34	37	14
Total Cost of Closed Claims (£'k)	2	0	9	16	0	1	0

10. The other main sources of insurance claims relate to material damage to buildings, including schools and motor vehicles. The Council's claims experience in these areas has to date been good. In respect of Council buildings where a deductible of £100,000 applies since April 2009 only 25 claims have been made on the self insurance fund with a total value of £200,000. The Council insures some 126 motor vehicles with a claim deductible of £1,000 and whilst there are between 30 and 60 claims per annum they have to date related to minor damage.

## The Insurance Provision and Reserve for CBC claims

11. The vast majority of Council insurance claim costs fall within the deductibles for most policies and are funded from a self insurance provision and reserve. Within the accounting arrangements for insurance, contributions are made to an insurance reserve to ensure deductibles can be funded over time. Given the uncertainties in respect of the timing and value of claims, particularly Public and Employer's liabilities, an external funding review is commissioned every three years to assess the adequacy of the insurance reserve.
12. The most recent review was carried out at September 2015 to forecast funding at 31 March 2016. Given the uncertainties around claims development over time the actuary indicates levels of funding between optimistic and pessimistic. The funding levels indicated at 31 March 2016 were £3.9m (optimistic) and £4.8m (pessimistic). The reserve and provision for Council self insurance at 31 March 2016 was funded around the total pessimistic estimate at £5m as it is at the start of three year cycle for formal actuarial evaluations and will next be reviewed in autumn 2018.

## Rechargeable costs – mainly Highways related

13. The insurance team process the recovery of costs from third parties, their insurers or the MIB (formerly the Motor Insurance Bureau established to compensate victims of negligent uninsured and untraced motorists), where motor vehicles have accidentally damaged the Highways network. The table below shows the value of claims raised since the 1 April 2009. A financial year comparison is not especially informative as the records reflect when invoices were raised for recovery not the date of the incident. There was a degree of catch up on these type of claims following the creation of the Council and figures are presented for 2009 to March 2013 in total with an annual average for 4 years also shown. Individual large claims in any one year can also make year on year comparisons less meaningful.

<b>CBC rechargeable claims 2009 - 2017</b>				
Financial Years	Number of claims invoiced	Value of claims £k invoiced	Paid £k	Individual claims above £15k
2009/13	180	200	168	3 - £17k, £19k and £20k
4 year Average 2009/13	45	50	42	
2013/14	29	49	21	1 £20k
2014/15	18	20	14	-
2015/16	17	15	6	-
2016/17	5	9	0	-

14. Progressing such claims is time consuming and relies on knowledge of the incident and information sufficient to identify the vehicle involved. The Highways contractors' databases record costs in detail and supporting invoices are required to substantiate claims to be made. The response of certain insurers to submitted claims can be less than helpful and as a result it can be difficult to secure settlement.
15. It is recognised that the volume of such claims has reduced over time and the insurance team are engaged with the Highways service and new maintenance contractor to improve the process so that where possible a recovery can be made. In the financial year 2016/17 whilst 5 invoices have been raised to date some 21 other cases are currently in progress. In addition, as a pilot exercise, the insurance team have referred the outstanding unpaid claims to a specialist recovery company and used that organisation's advice and expertise to improve the internal claim documentation.

### **Legacy Authority Insurance position**

16. Under the terms of the disaggregation agreement the Council continues to administer claims in respect of the former County Council and a reserve was created in 2009/10 to meet the deductibles arising in respect of existing and new claims. There continues to be a small number of claims arising in respect of the legacy authority and at the current time some 30 claims are open with a combined estimated cost of £1.9m of which some £1.1m could fall to the legacy insurance fund as deductibles or the effect of the MMI Levy. A number of claims have been received in 2016 which have not yet been fully assessed by the insurers so the estimate outlined above is probably understated.
17. The financial exposure of both this Council and Bedford Borough has increased in recent years as the Directors of MMI in November 2012 could no longer foresee a solvent run off with all claims paid in full. Under the terms of the scheme of arrangement made in 1994 the Directors of MMI triggered the contingent scheme relinquishing all their general powers to a Scheme Administrator. Councils and other authorities as creditors of MMI had agreed to a levy period following any administration which allows for a clawback of claims previously paid in full since 30<sup>th</sup> September 1993 and a reduction in the value of claims paid in the future. The levy is intended to allow for an orderly and solvent run off of the company's business to the benefit of all qualifying creditors. To date two levies have been made, 15% on 1 January 2014 and a further 10% from 1 April 2016.
18. As at the 30<sup>th</sup> September 2016 the total claims paid by MMI since 1993 totalled £4m of which £3.65m was in respect of the former Bedfordshire County Council, £0.35m in respect of South Bedfordshire District Council and £0.05m in respect of Mid Bedfordshire District Council. The

overall effect of the two levy events has been to reduce the MMI insurance recoveries by £1m. MMI have indicated that it could be 2055 when the last claim may be settled and the actuary has advised that any reserving for future levies should be based on a further 25% levy.

19. As with the insurance reserve and provisions for CBC claims outlined above the regular review of self insurance arrangements indicates funding levels in respect of the legacy authority claims. At 31<sup>st</sup> March 2016 the provision and reserve in total were funded in line with a central estimate from the actuarial review of £1.4m.

### **Council Priorities**

20. Maintaining an appropriate level of insurance is an important element of managing the Council's financial risks and contributes to an efficient and responsive Council.

### **Corporate Implications**

#### **Legal Implications**

21. All employers are required by the Employers' Liability (Compulsory Insurance) Act 1969 to insure with an authorised insurer against employee illness or injury. Other insurance policies are intended to protect the Council from significant financial losses.

#### **Financial and Risk Implications**

22. Insurance arrangements are an element of overall risk management with a degree of financial risk assumed by the Council through the acceptance significant deductibles funded from prudent reserving for developing claims. The cost of insurance premiums and the claims history are outlined within the report.

#### **Equalities Implications**

23. No decision is required the report is presented for review and comment.

#### **Implications for Work Programming**

24. None.

## **Conclusion**

25. The Council maintains appropriate insurance policies. As outlined above the Council's insurance claims experience has been generally good. Proper and effective procedures and training will reduce the risk of claims arising. Robust record keeping is also an important element in addressing claims that may arise. Whilst post April 2009 claims experience have been generally good, employer and public liability claims can arise after long periods of time particularly in respect of cases of disease and abuse of children and young people. The claims still arising in respect of the former County Council and reflected in the position of MMI illustrate this particular risk. The Council has prudently provided against the future costs of insurance claims and regularly reviews that position.

## **Appendices**

26. None

## **Background Papers**

27. None