

ROTHERHAM BOROUGH COUNCIL – REPORT TO AUDIT COMMITTEE

1.	Meeting:	Audit Committee
2.	Date:	19 December 2012
3.	Title:	Annual Review – Insurance and Risk Management Performance
4.	Directorate:	Resources

5. Summary

This report refers to the numbers and costs of insurance claims made against the Council.

The Council continues to have a very good and improving record in most areas. Proactive risk management measures are helping to reduce the number of claims made against the Council and effective monitoring / inspection systems are enabling the Council to successfully defend many claims that are received.

The report highlights areas where risk management action is helping to achieve the greatest savings in support of the Council's Medium Term Financial Strategy. It also shows areas where opportunities may exist to improve performance and reduce costs further.

6. Recommendations

The Audit Committee is asked:

- **to note the generally good performance of the Council in managing its risks and minimising successful insurance claims against the Council.**
- **to note the current issues referred to in Section 7.6 of the report.**

7. Proposals and Details

7.1 Insurance claims and costs 2002/03 to 2011/12

A summary of claims received by the Council over the past ten years, relating to the five main areas of insurance risk, is contained in the following table.

Numbers and Costs of Claims Received 2002/03 to 2011/12		
Area of Risk	No. of Claims	Cost of Claims
Public Liability	3,094	£4.111m
Employers' Liability	555	£4.018m
Highways	2,254	£1.752m
Motor Vehicle	3,646	£3.259m
Fire	73	£1.700m
2002/03 to 2011/12	9,622	£14.840m

On average, the Council has paid almost £1.5m per year on insurance claims over the last 10 years. The need to continue to invest in reducing the costs of accidents via improved management systems, work environment and training cannot be overstated, in order to keep the cost of claims as low as possible.

7.2 High Performing Areas

- School Fires
- Highways Trips and Slips
- Recovery of Uninsured Motor Vehicle Accident Losses
- School Fires

7.2.1 School Fires

Rotherham's claims record on fire across all properties is very good and our claims experience with regards to school fires is excellent.

School risk surveys arranged by the Council's Insurance and Risk Management Service have been used to highlight the needs of each school and the steps they could put in place to minimise the risk of claimable incidents. Subsequent risk management work has been agreed between building managers and head teachers, and implemented wherever possible. This work has provided the platform for the Council's exemplary record.

The Council now substantially out-performs other authorities, as can be seen from the table below, which is based on fires occurring since 2007.

	Rotherham	National Average	Difference +/-
	£	£	£

Average Cost per Claim	3,120	60,000	- 56,880
Cost of Claims per School per Year	27	896	- 869

The difference in performance, based on the number of schools at Rotherham, means that **the Council spends £97,000 less per year than the average figure on school fires.**

7.2.2 Highways Trips and Slips

Despite the emergence of numerous aggressive claims management companies in the last 10 years and their high-profile 'no win – no fee' marketing campaigns, Rotherham continues to manage highways risks very successfully. The current claim repudiation rate (i.e. closed without payment) of 89% makes the Council amongst the best performing in this regard.

Performance is shown in the table below.

Highways Liability PI Claims Performance 2006/07 to 2010/11				
Year	Claims Received	Settled at Nil	Total Claims Paid	Ave Cost per Claim
2007	191	161 (87%)	£141,894	£4,729
2008	202	182 (90%)	£147,158	£7,745
2009	160	127 (79%)	£226,193	£8,078
2010	284	259 (91%)	£103,447	£6,896
2011	375	337 (89%)	£39,636	£2,331

The Council's proactive highways inspection and maintenance regimes contribute significantly to this performance.

7.2.3 Recovery of Uninsured Motor Vehicle Accident Losses

Rotherham has historically self-funded all costs arising from accidental damage to its own motor fleet, even in instances where that damage had been incurred as a consequence of negligence on the part of a third party (i.e. non-fault claims).

However, at the end of 2005, the Risk Management Section appointed MAPS Legal Assistance on an initial one year basis to recover damages from third parties. Since taking on their first case in November 2005, MAPS has recouped over £148,000 for the authority in lieu of our repair costs.

7.3 Areas where performance is improving

- Employer's Liability Claims
- Motor Vehicle Claims

7.3.1 Employer's Liability Claims

Employer's Liability risk has been a concern for local authorities for some years, particularly in respect of degenerative type injuries including Vibration

White Finger, Noise Induced Hearing Loss, Manual Handling and Repetitive Strain Injury claims.

At Rotherham, the Health & Safety Team has carried out a wide range of risk management activities to minimise the risk of injuries and this is having a positive effect on both the number of claims received and the Council's ability to defend or minimise the payments made against such claims. This positive trend is demonstrated by the statistics below:

	2006/07	2007/08	2008/09	2009/10	2010/11	Total
Total No. Claims	62	49	45	43	39	238
Closed Claims – Paid	36	37	23	12	12	120
Closed Claims – Not Paid	26	10	20	21	6	83
No. Closed Claims - Total	62	47	43	33	18	203
Total Cost of Closed Claims	383.2k	575.9k	223.0k	140.0k	116.7k	1,438.8k

The statistics show:

- The number of claims is reducing year on year
- A reduction in the overall cost of claims paid to date.

7.3.2 Motor Vehicle Claims

The number of motor vehicle claims received has reduced year on year since 2007/08 from 455 to 208 in 2011/12 (a 54% reduction), as has the cost of claims from £590.3k to £119.0k (a 79% reduction).

It is acknowledged that the externalisation of the 2010 Repairs & Maintenance function, together with their vehicles, had a positive effect on these figures. However, other initiatives such as driver training and the installation of cameras on Refuse Collection Vehicles have also undoubtedly proved influential.

The re-centralisation of vehicles at Hellaby Depot has also proved beneficial. In addition, 106 claims have been received thus far in 2012/13, which suggests that further reductions may be realised at the end of the financial year.

7.4 Trips and slips on Housing owned footpaths & walkways

The Council's performance relating to claims for trips and slips on housing owned footpaths and walkways remains an area for possible improvement.

Since the termination of 2010 Rotherham Ltd in July 2011, 28 claims have been received relating to incidents occurring on Housing owned footpaths. Of

these, 24 remain outstanding with claim reserves totalling £160,400. Three have been settled without payment and 1 was settled at a cost of £6,900.

The implementation of a sound system of inspection would improve repudiation rates and cut costs to the authority in the medium term.

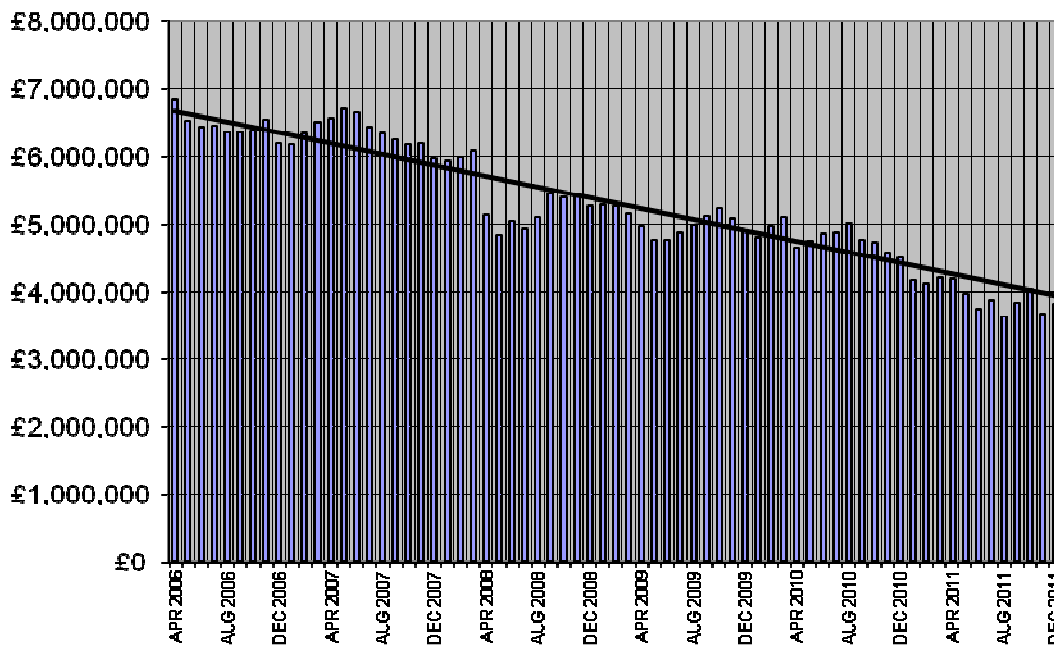
We are working with Housing Services in developing their approach.

7.5 The level of the Insurance Fund

The insurer's current compulsory policy excess (£100,000) means that 99% of claims settled are met directly out of the Council's Insurance Fund.

A gradual increase in claims up to 2006 led to an increase in the Insurance Fund provision required to meet estimated claims' costs. However, since 2006, strengthened risk management and a consequent reduction in claims have enabled the provision to be reduced significantly over this period.

The reduction in the numbers and costs of claims can be seen in the bar chart below. Monthly changes in the overall claims' provision and a trend line are shown in the chart.



The provision required to meet outstanding claims has reduced from £7.5 m in 2004 to £4.6m currently. This has enabled £2m to be released from the Insurance Fund to support the Council's General Fund budget position.

The Council needs to be continually alert to any new claims activity. Relatively new areas of claims activity such as disease caused by exposure to asbestos

dust/fibres and abuse-type claims emphasize the need for adequate management systems to manage risks in all areas.

In the past five years Rotherham has received three claims in respect of asbestosis. Two of the asbestosis claims were successfully defended but in the third, where the mother of an employee contracted the disease as a consequence of inhaling fibres whilst washing her son's work clothes, liability was attached to the Council.

The Council presently also has two high value on-going abuse-type claims.

The Council will appreciate that it will not take too many claims of this nature to affect the financial standing of the insurance fund.

7.6 Current issues

Municipal Mutual Insurance, Trigger Litigation – One of the Authority's previous insurers, Municipal Mutual Insurance (MMI), had been seeking clarification of its liability to indemnify policyholders in respect of historic employee mesothelioma claims, which led to test litigation known as the "Employers Liability Trigger Litigation". The outcome of this litigation was that the Supreme Court subsequently found against MMI.

This has led to MMI circulated a letter dated 13 November 2012 advising that the Company will have insufficient funds to meet its liabilities and confirming the Directors of the company had placed it into liquidation. Any shortfall in funding experienced by the Company has to be met by the mutual members, including Rotherham MBC.

An Administrator who has been appointed to deal with the Company's affairs is expected to give the Council an estimate of its potential liability in the near future. It is hoped the Insurance Fund can make a significant contribution towards any liability, thereby reducing any impact on the General Fund.

Claims Handling Protocols: 'The Jackson Reforms' – Following on from 2009's reduction in the time allowed to deal with Motor claims from 90 days to 15 days, it had been widely predicted for some time that similar measures would be applied to Public Liability claims in an attempt to address spiralling costs and speed up the legal process. This resulted in a review conducted by Lord Justice Jackson, known as 'The Jackson Reforms', the key task of which was to address disproportionate costs in civil litigation – i.e. to make it cheaper and more efficient.

The implementation of these reforms will place additional pressure on the Insurance and Risk Management Section and also colleagues within other Directorates involved in the collation of claims information. Whilst it is thought unlikely that the time allowed to reach a decision on liability will be cut as drastically as it was in the case of motor claims, both 30 and 45 days have

been mooted as possibilities. Failure to provide requisite information within the stipulated timescales could result in claims being lost by default.

Directorates will be notified of developments as and when the definitive liability period has been declared and will be assisted in complying with the new timescales.

8. Finance

Financial implications have already been identified elsewhere in this report, however, it should be stressed that the compulsory policy excess (£100,000 on each and every claim) means that the vast majority of claims are met directly from the authority's Insurance Fund.

9. Risks and Uncertainties

The Council attempts to prevent, minimise and control claims as outlined above. Positive action results in a decrease in the number of claims and settlement costs, a subsequent reduction in employee hours/costs incurred in investigating claims and a greater likelihood of reduced insurance premiums in the future as a consequence of an improved claims history.

To assist our attempts to prevent /minimise claims, the Council uses 10 free days Risk Management or Loss Control training provided by the Council's claims handlers; Gallagher Bassett. These days have helped officers to identify and implement improved risk management actions.

10. Policy and Performance Agenda Implications

Claims management procedures play an important role in both informing and influencing all elements of risk management. Risk management is one of the dimensions of good corporate governance. It is all encompassing and impacts on all areas of the Council's Policy and Performance Agenda.

11. Background Papers and Consultation

- CIPFA Insurance Benchmarking Surveys 2008 – 2011
- MMI Briefing Notes, August 2011 to date
- Gallagher Bassett, Risk Control Services Report, Version 4

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