

## ROTHERHAM BOROUGH COUNCIL – REPORT TO AUDIT COMMITTEE

|    |                     |   |
|----|---------------------|---|
| 1. | <b>Meeting:</b>     | Audit Committee   |
| 2. | <b>Date:</b>        | 18 December 2013  |
| 3. | <b>Title:</b>       | Annual Review - Insurance and Risk Management Performance |
| 4. | <b>Directorate:</b> | Environment & Development Services                        |

### 5. Summary

This report builds on previous reports on the numbers and cost 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.

### 6. Recommendations

**The Audit Committee is asked to note the generally very good performance in relation to the management of risk and minimisation of insurance claims costs.**

## 7. Proposals and Details

### 7.1 Insurance claims and costs 2003/04 to 2012/13

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:

| <b>Numbers and Costs of Claims Received 2003/04 to 2012/13</b> |                      |                       |
|--|----------------------|-----------------------|
| <b>Area of Risk</b>  | <b>No. of Claims</b> | <b>Cost of Claims</b> |
| Public Liability   | 3,021                | £3.947m               |
| Employers' Liability   | 597                  | £3.895m               |
| Highways   | 2,215                | £1.519m               |
| Motor Vehicle  | 3,330                | £3.091m               |
| Fire   | 69                   | £1.741m               |
| <b>2003/04 to 2012/13</b>                                      | <b>9,232</b>         | <b>£14.193m</b>       |

On average, the Council has paid £1.42m 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.

### 7.2 High Performing Areas

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

Rotherham's claims record on fire across all properties is very good and on schools it is excellent.

The Governance Section has twice arranged for risk surveys to be carried out at all schools. These highlighted the needs of each school and led to subsequent Risk Management work where needed. This work provided the platform for the Council's exemplary record; only two minor fires have occurred in Rotherham schools in the past three years at a time when the annual cost of school fires in the UK rose to £65m.

The Council now substantially out-performs other authorities, as can be seen from the table below, which is based on fires occurring in the last 6 years.

|                                    | <b>Rotherham</b> | <b>National Average</b> | <b>Difference +/-</b> |
|------------------------------------|------------------|-------------------------|-----------------------|
|                                    | <b>£</b>         | <b>£</b>                | <b>£</b>              |
| Average Cost per Claim             | 3,016            | 60,000                  | - 56,984              |
| Cost of Claims per School per Year | 26               | 896                     | - 870                 |

The difference in performance, based on the number of schools at Rotherham, means that **the Council spends over £100,000 less per year than the national average figure on school fires.**

### 7.2.1 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 claims repudiation rate (i.e. closed without payment) of 97% makes the Council amongst the best performing nationally in this regard.

Performance is shown in the table below.

| <b>Highways Liability PI Claims Performance 2008/09 to 2012/13</b> |                     |                        |                      |                          |                              |                    |                               |
|--|---------------------|------------------------|----------------------|--------------------------|------------------------------|--------------------|-------------------------------|
| <b>Incident Year</b>   | <b>Claims Rec'd</b> | <b>Number On-going</b> | <b>Number Closed</b> | <b>Number Repudiated</b> | <b>Percentage Repudiated</b> | <b>Number Paid</b> | <b>Total Paid (inc costs)</b> |
| 2008/09  | 161                 | 1                      | 160                  | 128                      | 80%                          | 32                 | £306,761                      |
| 2009/10  | 306                 | 4                      | 302                  | 283                      | 93%                          | 19                 | £187,672                      |
| 2010/11  | 368                 | 18                     | 350                  | 327                      | 93%                          | 23                 | £138,268                      |
| 2011/12  | 171                 | 18                     | 153                  | 142                      | 93%                          | 11                 | £108,884                      |
| 2012/13  | 270                 | 61                     | 209                  | 203                      | 97%                          | 6                  | £2,879                        |

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

### 7.2.2 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).

Previous link-ups with loss recovery companies to attempt to recoup our outlay from third party insurers had proved largely ineffective. However, at the end of 2005, the Governance Section appointed MAPS Legal Assistance to pursue third party compensation.

The service costs less than £1,000 per year and since taking on their first case in November 2005, MAPS has recouped over £155,000 for the authority in lieu of our repair costs.

### 7.3 Areas where performance is good and 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 Corporate Emergency & 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:

| <b>Employer's Liability Claims Performance 2008/09 to 2012/13</b> |                     |                        |                      |                          |                              |                    |                               |
|---|---------------------|------------------------|----------------------|--------------------------|------------------------------|--------------------|-------------------------------|
| <b>Incident Year</b>  | <b>Claims Rec'd</b> | <b>Number On-going</b> | <b>Number Closed</b> | <b>Number Repudiated</b> | <b>Percentage Repudiated</b> | <b>Number Paid</b> | <b>Total Paid (inc costs)</b> |
| 2008/09   | 46                  | 2                      | 44                   | 20                       | 45%                          | 24                 | £244,192                      |
| 2009/10   | 44                  | 7                      | 37                   | 24                       | 64%                          | 13                 | £150,991                      |
| 2010/11   | 41                  | 12                     | 29                   | 10                       | 34%                          | 19                 | £216,475                      |
| 2011/12   | 27                  | 12                     | 15                   | 9                        | 60%                          | 6                  | £91,563                       |
| 2012/13   | 21                  | 12                     | 9                    | 7                        | 78%                          | 2                  | £10,938                       |

The statistics show:

- The number of claims is steadily reducing year on year
- a significant reduction in the overall cost of claims (£91k for 2011/12 compared to £244k for 2008/09)
- A gradual increase in the proportion of claims being successfully repudiated

### **7.3.2 Motor Vehicle Claims**

The number of motor vehicle claims received has reduced year on year since 2008/09, from 422, to 174 in 2012/13 (a 58% reduction), as has the cost of claims; from £406.1k to £113.7k (a 72% reduction) in the same period.

In addition, there has been a pleasing reduction in the number of accidents involving third parties, which has resulted in a decrease in third party costs from £184k in 2008/09 to £42K in 2012/13.

Initiatives such as driver training and the installation of cameras on Refuse Collection Vehicles have undoubtedly proved influential, as has the re-centralisation of vehicles at Hellaby Depot.

### **7.4 Trips and slips on Housing owned footpaths & walkways**

Since the termination of 2010 Rotherham Ltd (wef 1 July 2011), 57 claims have been received relating to incidents occurring on Housing owned footpaths. Of these, 35 are presently outstanding with claim reserves totalling £264,840, 15 have been settled without payment and 7 have been settled at a cost of £41,077.

Whilst acknowledging the current situation with regards to budget cuts, it should nonetheless be stressed that the implementation of a sound system of inspection would improve repudiation rates and cut costs to the authority in the medium term.

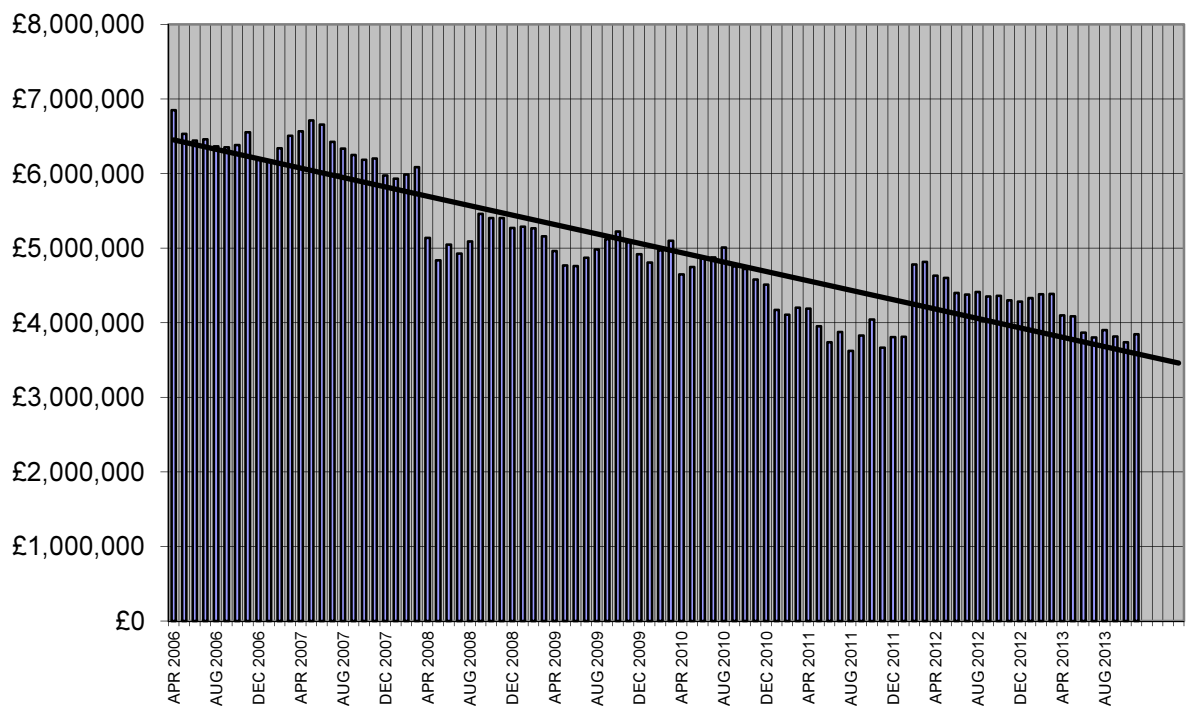
The issue has been referred to the newly appointed Business & Commercial Programme Manager (NAS) with a request that he reviews this area with a view to implementing some form of inspection regime to try and minimise the inherent risk.

### 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 (partly an outcome of the 'no win – no fee' claims culture) led to an increase in the Insurance Fund provision required to meet estimated claims' costs. However, since 2006, strengthened Risk Management and the 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 £7.8m in 2006 to £4m currently.

As a consequence, this allowed the Governance Section to contribute over £2.9m from the Insurance Fund to the General Fund between 2006/07 and 2012/13 to assist in the alleviation of budget pressures. A further £350k has already been contributed towards the 2013/14 budget and a further £100k has been earmarked for 2014/15.

## **7.6 High Value / New Areas of Claim**

The Council needs to be continually alert to any new claims activity and the potential impact on funds.

There has been an increasing interest in child care cases following recent high profile national publicity on the issue. There is also increasing interest in long-standing diseases, such as asbestosis. The Council has significant reserves set aside for such claims.

## **7.7 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. The outcome of a watershed case in 2012 was that the Supreme Court found against MMI.

As a consequence, MMI decided there was no prospect of a solvent run off of its liabilities and appointed an Administrator to undertake a financial review of the company. The Administrator will be responsible for calculating the levy owed by each authority that was part of MMI, including Rotherham Council.

The levy payable by the Council will be calculated as at 1 January 2014 and a formal statement, plus invoice, will be issued within 14 days thereafter.

Provision has been made in the accounts for £1.32m and liability will continue to be monitored on an on-going basis.

## **7.8 Renewal of Insurance / Broking Contracts**

The Council's insurance contracts, together with its broking contract, expired in 2013.

For the insurance contracts, tendering procedures were followed in accordance with OJEU Tendering regulations and three year contracts, with an option for a further two additional years, were awarded to RMP (Liability; Motor; Pecuniary; Travel) and Zurich Municipal (Property).

The overall total of the above proposed contract awards virtually mirrors the total premiums paid in 2012. At a time when the insurance market (and economy) is in a state of flux and many local authorities are reporting the breaking of Long Term Agreements and wide scale increases in premiums, this is a positive outcome for Rotherham Council and reflects the market's view of its solid risk status.

The broking contract was awarded in compliance with the Council's Financial Regulations & Standing Orders and a three year contract, with an option for a further two additional years, was awarded to Aon Ltd. This resulted in a saving of £2,000 per annum (10%), equating to £10,000 over the life of the contract.

## **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.

To assist our attempts to prevent/minimise claims, our claims handlers, Gallagher Bassett, provide 10 free days Risk Management or Loss Control Consulting services.

## **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.

There are presently several areas of potential risk described in this report which could impact adversely on the authority's claims experience, reputation, premiums payable and place greater demand and pressures on the Insurance Fund and Directorate budgets.

## **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.

## **12. 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
- Report to Deputy Leader – Award of Insurance Contracts, March 2013
- Zurich Municipal Schools Fire Statistics 2013

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