

ROTHERHAM BOROUGH COUNCIL – REPORT TO AUDIT COMMITTEE

1.	Meeting:	Audit Committee
2.	Date:	11 March 2015
3.	Title:	Annual Review - Insurance and Risk Management Performance
4.	Directorate:	Resources & Transformation

5. Summary

This report builds on previous reports to Audit Committee 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. It also shows areas where opportunities may exist where further savings could be realised.

6. Recommendations

Audit Committee is asked:

- **To note the high performing areas:**
 - **School Fires**
 - **Highways Trips and Slips**
 - **Recovery of Uninsured Motor Vehicle Accident Losses**
- **To note better performance in areas previously with below average performance:**
 - **Employer's Liability Claims**
 - **Motor Vehicle Claims**
- **To consider where opportunities may exist for further improvement:**
 - **Trips and slips on Housing owned footpaths & walkways**
- **Note the premium savings achieved for 2015/16 across various insurance policies and claims handling charges**

7. Proposals and Details

7.1 Insurance claims and costs 2004/05 to 2013/14

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 2004/05 to 2013/14		
Area of Risk	No. of Claims	Cost of Claims
Public Liability	2,642	£4.578m
Employers' Liability	576	£4.020m
Highways	2,289	£1.911m
Motor Vehicle	3,157	£3.090m
Fire	60	£1.615m
2004/05 to 2013/14	8,724	£15.214m

On average, the Council has paid £1.52m 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 remains very important, to keep these costs to a minimum.

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, in particular, our claims experience with regards to school fires is excellent.

The Governance Section arranged for risk surveys to be carried out at all schools and these highlighted the needs of each school, leading to subsequent risk management being implemented wherever possible. This work provided the platform for the Council's exemplary record, indeed only one fire of any description has occurred in Rotherham schools in the past three years at a time when, according to figures compiled by Zurich Municipal, the annual cost of school fires in the UK rose to £67m.

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	1,196	67,000	- 65,804
Cost of Claims per School per Year	11	1,001	- 990

The difference in performance, based on the number of schools at Rotherham, means that **the Council spends over £114,000 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 ‘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 95% makes the Council amongst the best performing nationally in this regard.

Performance is shown in the table below.

Highways Liability PI Claims Performance 2009/10 to 2013/14							
Incident Year	Claims Rec'd	Number On-going	Number Closed	Number Repudiated	Percentage Repudiated	Number Paid	Total Paid (inc costs)
2009/10	306	1	305	286	93%	19	£203,186
2010/11	368	7	361	334	92%	27	£205,292
2011/12	173	10	163	149	91%	14	£135,339
2012/13	274	17	257	246	96%	11	£30,642
2013/14	230	41	189	180	95%	9	£23,782

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).

However, at the end of 2005, the Governance Section appointed MAPS Legal Assistance on an initial one year basis. Since taking on their first case in November 2005, MAPS has recouped over £186,000 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 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:

Employer's Liability Claims Performance 2009/10 to 2013/14							
Incident Year	Claims Rec'd	Number On-going	Number Closed	Number Repudiated	Percentage Repudiated	Number Paid	Total Paid (inc costs)
2009/10	44	1	43	24	55%	19	£224,829
2010/11	42	8	34	10	29%	24	£325,604
2011/12	21	6	15	9	60%	6	£71,884
2012/13	28	19	9	3	33%	6	£41,913
2013/14	14	13	1	0	0%	1	£6,200

The statistics show:

- The number of claims is steadily reducing year on year
- A significant reduction in the overall cost of claims (£41k for 2012/13 compared to £224k for 2009/10)
- Vibration White Finger claims appear to be in decline, with only 8 new claims received in the past 5 years

7.3.2 Motor Vehicle Claims

The number of motor vehicle claims received has reduced since 2008/09, from 422 to 190 in 2013/14 (a 54% reduction), as has the cost of claims from £406.1k to £178.5k (a 56% reduction) in the same period.

In addition, there continues to be a reduction in the number of accidents involving third parties, with only 34 claims of this nature occurring in 2013/14, although the subsequent cost of £77k did account for 39% of the total cost of motor claims. However, when considering that the authority operates a fleet of 270 vehicles, plus an additional 100 vehicles on hire at any given time, this represents good performance.

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

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 (wef 1 July 2011) a further 75 claims have been received relating to incidents occurring on Housing owned footpaths. Of these, 35 are presently outstanding with claim reserves totalling £245,125. 28 others have been successfully defended without payment and 12 have been settled at a cost of £106,431.

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.

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 had enabled the provision to be reduced significantly over this period.

However, whilst the authority continues to perform excellently in maintaining high claim repudiation rates and driving claim numbers down, the revelations regarding historic Child Sexual Exploitation, and the subsequent insurance claims arising from this, has now placed a pressure on the Insurance Fund.

It has been widely publicised that claims have been lodged against the council with the prospect of more to come. The council is currently liaising with its insurers and legal advisers with regard to any claims received.

7.5.1 High Value / New Areas of Claim

The Council should not lose sight of the fact that it needs to be continually alert to any new claims activity and the potential impact on funds.

As mentioned in the previous category, the Child Sexual Exploitation claims continue to dominate and pose ongoing challenges to both the Governance Section and the authority in general. Insurance claims are being handled by the Governance Section, headed by the Insurance & Risk Manager, in conjunction with the Council's claims handlers, Gallagher Bassett, and Forbes Solicitors. Forbes have worked closely with our insurers on the Rochdale CSE cases and it was felt that the knowledge they have gained in doing so, and in dealing with Switalskis Solicitors, who are representing CSE claimants, will be of benefit to us.

Local authorities continue to receive claims from relatively new areas of activity such as disease caused by exposure to asbestos dust/fibres, although thankfully at Rotherham these numbers have been comparatively small. Between 2009 and 2013, five claims in respect of asbestosis were received,

three of which were successfully defended and two of which were settled at a total cost to the authority of £96k. Encouragingly, no new claim of this type has been received since May 2013.

It has also been widely speculated in the insurance media that the demands and pressures placed on local government workforces resulting from ongoing budget cuts may lead to a rise in work-related stress claims. This has not, as yet, materialised in Rotherham but the need for adequate management systems to manage this, and risks in all areas, remain very important.

The Audit Committee will appreciate that it does not take many claims of this nature to add more significant pressure to the Insurance Fund.

7.6 Renewal of Insurance Contracts 2015/16

In accordance with OJEU Tendering Procedures, the provision of insurances to the Authority was subject to a full tender process in 2012/13 and, as a consequence, Long Term Agreements with the respective insurers were agreed which took effect from 28 February 2013.

Following a recent meeting with the Council's insurance agents, RMP, at which they presented their renewal terms for the coming year, it became apparent that the Combined Liability premium (Public Liability, Employer's Liability & Motor) quoted for 2015/16 would realise an increase of £75,395 on last year's premium. This was largely as a consequence of the Casey report, but also a reflection of the general unrest within the insurance industry with regards to CSE, not only in Rotherham but nationwide.

However, RMP also offered alternative terms for consideration, which included the option to raise the Self Insured Retention (SIR) level and aggregate stop limit in exchange for a reduction in premium.

Rotherham are one of only a select number of local authorities who have been operating with a SIR level as low as £100,000, largely as a consequence of our excellent claims history over the last decade. Most other authorities of our size are now operating with £250,000 SIR levels.

After an analysis of the last 10 years claims experience, and subsequent approval by SLT, it was decided to increase the authority's SIR level to £250,000 in exchange for a sizeable reduction in the 'up-front' premium.

In conjunction with savings achieved on other policies as a consequence of an excellent claims experience and the ongoing reductions in the property portfolio and workforce numbers, an overall saving of £273,124 was achieved on last year's renewal premiums.

The renewal figures are summarised below for information.

Company/Policy	2014/15	2015/16	+/-
	£	£	£
Risk Management Partners			
- Cross Class (Liability & Motor)	401,664	227,700	-173,964
- Officials Indemnity	47,500	47,500	-
- PA/Travel/School Journey	16,236	13,893	-2,343
- Crime – Fidelity Guarantee	40,000	40,000	-
- Terrorism	70,750	56,610	-14,140
- Computer (Mainframe)	3,680	3,680	-
Gallagher Bassett			
- Claims Handling Costs	88,015	79,390	-8,625
Zurich Municipal Insurance			
- Property	347,461	274,525	-72,936
- Engineering	38,787	37,671	-1,116
- Marine	6,127	6,127	-
Totals	1,060,220	787,096	-273,124

7.7 South Yorkshire Passenger Transport – Claims Handling

Following discussions which commenced in 2012, agreement was reached with the South Yorkshire Passenger Transport Executive that with effect from 1 April 2015, their insurance claims would be handled by the Governance Section.

Under the arrangement, SYPTE could save between 15% and 23% of its existing broker costs by adopting the ‘shared service’ proposal, whilst RMBC will receive £14,500 per annum in respect of the service provided.

Whilst the income generated is comparatively modest, the arrangement illustrates that the Governance Section is capable of leading services for other organisations and of the confidence of others in our services.

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, although – despite repeated offers to services - take up of these days is surprisingly poor. Further information on the services offered can be obtained from the Governance Section.

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.

Despite this work, there remain areas of potential risk which could impact adversely on the authority's claims experience and premiums payable, and place greater demand and pressures on the Insurance Fund and Directorate budgets. These are:

- **Child Sexual Abuse Claims**

See previous comments on this issue.

Unfortunately, this type of claim is historic, often dating back many years, and can prove difficult to defend.

- **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 consequently 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.

As a consequence, MMI decided there was no prospect of a solvent run off and appointed an Administrator, who subsequently undertook a financial review of the company and calculated the levy owned by each authority. The initial levy payable by the Council as at 1 January 2014 was £622k plus an additional levy of £234k in respect of the South Yorkshire Residuary Body.

Since then, the claims handling procedures implemented by MMI in conjunction with Zurich Municipal have been working satisfactorily with no indication that an additional levy will be necessary. However, the Scheme Administrator did state that a review of the rate of Levy and payment percentage will be conducted in each calendar year, so it's anticipated that any such review will take place after a full years' data is in hand, i.e. January 2015.

Based on information for the period to 30 September 2014, the maximum amount payable by the Council is likely to be in the region of £814k, £648k in respect of RMBC historic claims and £166k in respect of the South Yorkshire Residuary Body.

Provision has already been made in the accounts to allow for this and will continue to be monitored on an on-going basis.

11. 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
- Zurich Municipal Schools Fire Statistics 2013
- Various risk and insurance circulars (Kennedys; ALARM; Plexus Law)

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