

## **TRAFFORD COUNCIL**

**Report to:** Accounts & Audit Committee

**Date:** 28 June 2016

**Report for:** Information

**Report of:** Chief Finance Officer

### **Report Title**

#### **Insurance Performance Report 2015/16**

### **Summary**

This report provides a summary of insurance performance for 2015/16.

The gross cost of the insurance activity (excluding schools) for 2015/16 was £1.321m (£0.752m in 2014/15); comprising £0.422m of premium costs and £0.899m provision for liability claims. The main reason for the increase was the reassessment that took place of the provision for outstanding liability claims.

The provision for outstanding liability claims was £3.968m as at 31 March 2016, compared to £3.624m at 31 March 2015.

Overall liability claim numbers saw a slight increase in 2015/16 with 315 new claims compared to 305 in 2014/15; the number of liability claims paid saw a decrease with 93 claims paid in 2015/16 compared to 102 in 2014/15. There has been an improvement in the overall repudiation rates on settled claims in year from 62% in 2014/15 to 69% in 2015/16, the underlying repudiation rates across insurance policy years remains consistently high (**See Annex 2**).

### **Recommendations**

That the report be noted.

Contact person for access to background papers and further information:

Name: Graeme Bentley

Extension: 4336

Background Papers: None

## **1. Introduction**

- 1.1 This report updates the Committee on the Council's non-schools insurance activities for 2015/16 and the purpose is to update Members on:

**Section 2 - Current insurance programme;**

**Section 3 - Performance Update**

**Section 4 - The Current Budget Position;**

**Section 5 - Other Issues**

- 1.2 Insurance services are provided to a number of schools under a service level agreement. The cost of insurance support, insurance premiums and provisions for liability claims and buildings cover are recovered through charges to those schools who buy-back the service.

## **2. Current Insurance Programme**

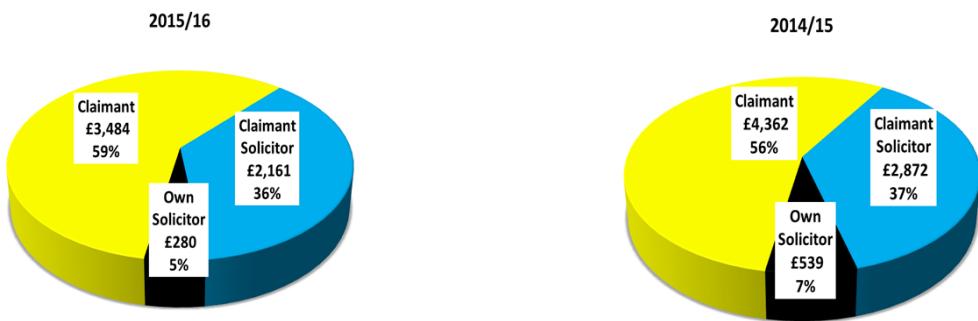
- 2.1 The Council's insurance programme covers a number of areas including property, public and employer's liability and a detailed summary of covers and providers is shown in **Annex 1**. Like most local authorities, in order to control premium costs, a number of the policy areas include higher excess levels than normal types of policy and it is therefore imperative that the Council maintains adequate insurance and risk management procedures.
- 2.2 The area where we can exert some financial control is in managing and monitoring risk as well as the handling and defending of claims. The following sections provide an overview of performance and a detailed look at the major classes of claims.

## **3. Performance Update**

- 3.1 In 2015/16 the Council received 315 new liability claims compared to 305 in 2014/15, an increase of 3%. The majority of these, 78%, were highway related claims. **Annex 2** provides information on the level of activity in 2015/16 compared to the previous year across the major insurance areas. It also provides information on the cost of claims settled in the year regardless of policy year.
- 3.2 A provision is included within the Council's accounts to cover the anticipated cost of all outstanding claims (**See Section 4**).

	<b>2015/16</b>	<b>2014/15</b>
<b>Live Claims at the Beginning of Year</b>	376	336
<b>New Claims Received in Year</b>	315	305
<b>Settled Claims in Year</b>	303	265
<b>Live Claims at the End of Year</b>	388	376

- 3.3 The average cost of settled claims in 2015/16 is £5,925, compared to £7,773 in 2014/15. A significant proportion of each claim is third party legal fees and as the majority of claims are now being settled under the fixed costs regime introduced by the Ministry of Justice in 2013 (**see Section 5**), it is expected that these will fall further.

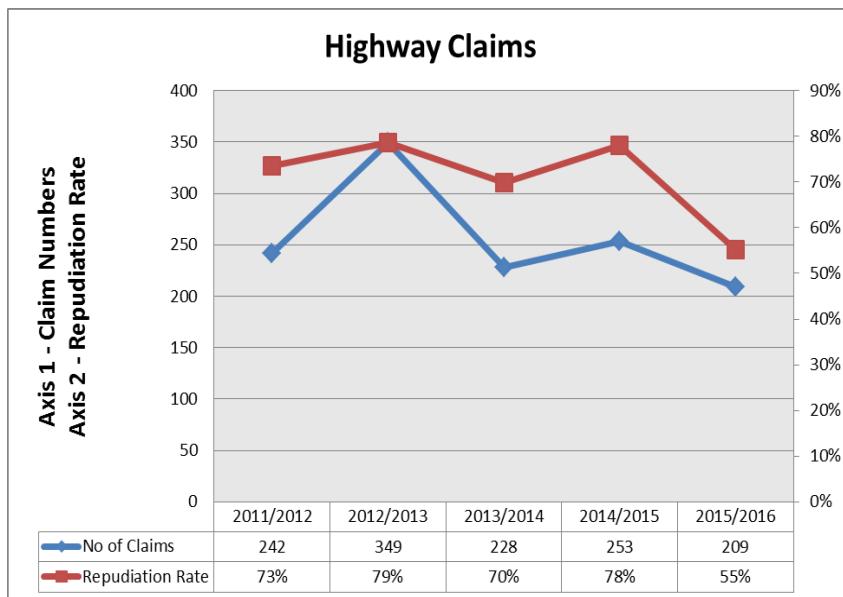


- 3.4 **Repudiation rates** have seen an increase from 62% in 2014/15 to 69% in 2015/16. The insurers settled more historic claims in 2015/16 (303) than 2014/15 (265) which had a positive effect on the repudiation rate (**See Annex 2**).

The overall trend on repudiation remains good when viewed across policy years.

- 3.5 **High value claims** are defined as claims that carry a reserve of £50,000 and above. As at 31 March 2016 the Council had 12 outstanding high value claims with an estimated total value of £1,305,897 and this is reflected within the current insurance provision. This compares to 9 outstanding claims as at 31 March 2015 with an estimated total value of £854,259. In the last 12 months three claims with a total reserve of £238,859 have been successfully defended, (**See Section 3.9, and 3.10**). The claims range across a number of policy years and are managed by specialist claim handlers / solicitors and monitored by the insurance team.
- 3.6 In July 2015 we received a high value claim where the claimant suffered spinal injuries due to a fall. The reserve (estimated cost of claim) for this claim was set by our insurers and is currently £500,000; after the combined efforts of the insurance team, highway officers and our external solicitors we were able to present a robust defence to the allegations made by the claimant's solicitor. As a consequence they have recently confirmed they are no longer pursuing the claim and this will mean we will be able close the file, remove the reserve from our experience and ultimately reduce the amount set aside in the insurance provision.
- 3.7 In the last few years awareness of historic abuse cases have come to national attention. We have received one such claim in 2015/16 dating back to abuse which occurred in the 1970's, because of the nature of the claim specialist solicitors were appointed. They have advised us that due to the specific circumstances of this case they were able to re-direct the claim to the alleged perpetrator.
- 3.8 Detailed within **Annex 3** is the summary claims information relating to policy years for the main classes of insurance for the last five years which show the trends in claim costs and claim numbers. The following paragraphs provide a commentary for the major insurance classes.

### 3.9 Public Liability – Highway Claims.



- Highway claim numbers have been relatively consistent for the last five years apart from a spike in 2012/13 when we experienced a particularly bad winter. Repudiation rates average at 75% over the five years, although 2015/16 is an immature year and it is expected that repudiation rates will rise as more claims are settled for this year.
- Highway claims continue to represent the largest risk to the Council both in terms of cost and volume. Over the five year period to 2015/16 the average annual cost of claims was £592,376. This figure is inflated due to 2014/15 and 2015/16 being immature years due to the number of outstanding claims which all carry a reserve (**See Annex 3**).
- We are continuing to work closely with our insurers and highways officers to ensure the majority of these claims will be repudiated and our repudiation rates remain at a continually high level.

#### Claims Commentary

- There are 14 outstanding claims for 2011/12 and 2012/13 with a reserve of £186,830; these claims have been litigated and are with the Council's appointed solicitors. Our robust inspection system has enabled our appointed solicitors to have one of the claims discontinued; this will reduce the provision required by £25,500. The medical report of a further outstanding claim in 2012/13 was challenged leading to a claim with a high reserve of £175,000 being settled at £58,520.
- In 2015/16 we successfully defended a highway tripping claim which carried a total reserve of £50,000. Whilst we admitted liability, we did not make an offer of settlement until the claimant was able to prove the severity of their injuries, no evidence was provided so the claim was discontinued.
- The Law relating to highway maintenance is governed by the Highways Act 1980. In particular, Section 41 of this Act imposes a duty on the Council to maintain the highway network for which it has responsibility. For there to be a

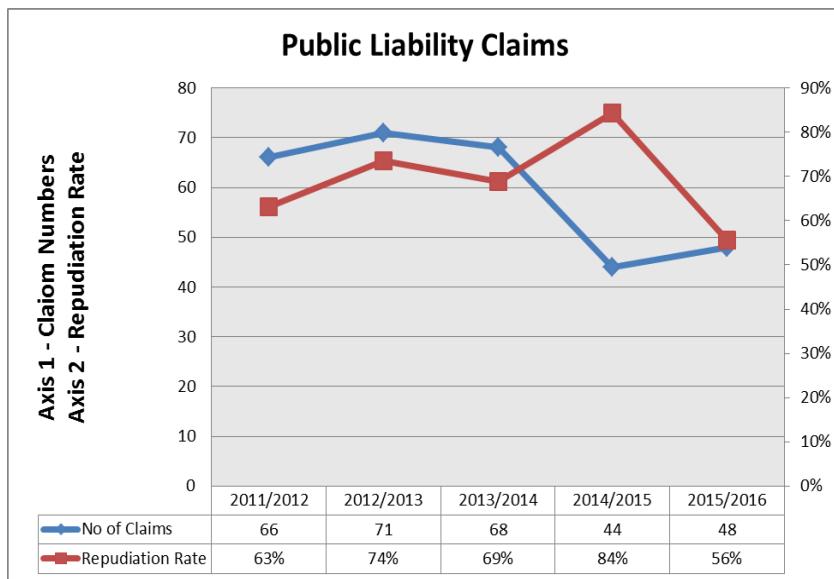
breach of Section 41, there must have been a failure to maintain or a failure to repair the highway or footway.

- A defence to claims against the Council is provided by Section 58 of the Act. This may be used to defend claims where the Council can demonstrate that it took all reasonable steps to ensure the highway was safe, for example by means of a scheduled inspection and repair system. Therefore, if the Council can prove that it has adequate policies and procedures to maintain the highway and that these are being performed, a claim can be repudiated.
- The table below shows the reasons why claims were settled in 2015/16 compared to 2014/15.

Reason for Settlement	Number of Claims:	
	2015/16	2014/15
Defect not picked up in carriageway	7	8
Defect not picked up in footway	8	7
Failure to repair carriageway	23	22
Failure to repair footway	6	3
No inspection of carriageway	9	15
No inspection of footway	1	4
Tree damage	16	10

- In 2014/15 the Highway Inspection team were experiencing temporary staffing issues which now appear to be resolved. The decrease in claims where no inspections took place reflects this as the numbers have reduced almost by half.
- The Highway Damage Claim Form introduced by the Insurance Team in the summer of 2013 continues to serve as a defence against potential spurious claims. The form seeks full documentation in support of a claim. It also sets out the Council's claims procedures and our legal duty in maintaining the highway under the Highways Act 1980. In 2015/16, 225 forms were sent out and 104 have been returned. This represents a "drop-out" rate of 54%.
- Reports providing reasons for settlement on individual claims is fed back to Highways on a quarterly basis in order that Highways can understand why claims are settled and adjust their inspection and maintenance systems accordingly.

### 3.10 Public Liability – Other Claims



- Public liability claims come from across all other services in the Council and whilst not as numerous as highway claims they represent a significant cost. Examples of these claims are incidents in parks, libraries and other community buildings or involving social services.
- Risk management initiatives have helped towards the reduction in claim numbers over the last two years. For example, we produced an insurance handbook for schools which received positive feedback, and as a result we now receive fewer claims against schools.

#### Claims Commentary

- A high value claim with a reserve of £95,824 was successfully repudiated in 2015/16. It relates to an incident which occurred on school grounds. The Council was able to demonstrate that the event was in no way down to negligence on the part of the school.
- In 2015/16 another claim relating to Environmental Health was successfully repudiated by the co-ordinated efforts of the Insurance Team, Environmental Health and our appointed solicitors. This claim had a reserve of £93,000 and our combined efforts resulted in protecting the Council against this large loss.
- Where appropriate, a member of the team will accompany the Insurer's claims investigator and meet with the relevant service to investigate and discuss liability issues.
- The Insurance Team continue to provide feedback at the claim settlement stage to inform the relevant department of the outcome of the claim along with risk management advice to prevent future claims occurring.

## 1.11 Employer's Liability Claims



- Employer's Liability claims represent the smallest claims in terms of volume but represent a significant cost to the Council. Employers Liability claims relate to injuries sustained by an employee, during the course of their duties. Claims can be received up to three years after the incident occurred. As a result, these claims are usually more time consuming and complex to handle as they may require retrospective investigation.
- The Reshaping Trafford Programme has changed the dynamic of our workforce to predominately office based staff which represent a significantly reduced risk when compared to manual staff and this is reflected in the falling number of claims.
- All Employers Liability claims are investigated by the Insurer's Claims Investigator and a member of the insurance team. We meet with the appropriate service to discuss the merits of the claim and our stance on liability. Any concerns in respect of health and safety procedures are fed back to our Health and Safety Unit for further review.

## 1.12 Motor Vehicle (Fleet) Claims

- The Joint Venture with Amey came into effect in July 2015; this has seen extensive changes to the Council's motor profile as the majority of the fleet now falls under Amey's responsibility.
- At the beginning of 2014/2015 we had a fleet of 124 vehicles and by the end of the year, this had reduced to just 12 vehicles. These changes are reflected in the improved claims experience (**See Annex 3**).
- In 2013/2014, our loss ratio (premium against cost of claims) was at 31%, as a result we were able to successfully negotiate a low claims rebate of £12,276 from our insurers. Likewise, the good performance of the fleet in 2014/2015 continues, therefore, we will be seeking another rebate for this policy period in the coming months.

#### 4. The Current Budget Position

- 1.1 The cost of non-schools insurance in 2015/16 is £1.321m, compared to a revised budget of £1.323m, comprising premiums of £0.422m and provision for the cost of liability claims of £0.899m. Whilst the variation to the budget is minimal there was:-
- Net increase in provision for claims £0.053m.
  - This is offset by a decrease in premiums of £(0.055)m due to a reduction in the fleet and property portfolio.

	2014/15 Actual £000	2015/16 Projected £000	2015/16 Actual £000	2015/16 Variance £000
<b>Premiums:</b>	<b>397</b>	<b>477</b>	<b>422</b>	<b>(55)</b>
Casualty	190	208	233	25
Property	50	104	89	(15)
Fleet	142	148	78	(70)
Money, Fraud	15	17	22	5
<b>Provision:</b>	<b>355</b>	<b>846</b>	<b>899</b>	<b>53</b>
Liability Highway	528	548	467	(81)
Liability Other	207	298	148	(150)
Year End Reassessment	(380)		284	284
<b>Gross Expenditure:</b>	<b>752</b>	<b>1,323</b>	<b>1,321</b>	<b>(2)</b>
Less Income (Non Schools DSG and DSO)	(239)	(75)	(87)	(12)
Contribution (from)/to reserve	262	(373)	(359)	14
<b>Net Expenditure</b>	<b>775</b>	<b>875</b>	<b>875</b>	<b>0</b>

- 1.2 The Council maintains both an insurance provision to cover the cost of outstanding liability claims and an insurance reserve.

Provision	£000:	Insurance Reserve	£000:
<b>Balance as at 01/04/2015</b>	<b>(3,624)</b>	Balance as at 01/04/2015	<b>(3,065)</b>
<b>Additional Contribution from Revenue(*)</b>	<b>(1,011)</b>	MMI Levy	<b>282</b>
<b>Less Claims Paid</b>	<b>951</b>	Contribution to Insurance Budget	<b>359</b>
<b>Reassessed Provision</b>	<b>(284)</b>		
<b>Balance as at 31/03/2016</b>	<b>(3,968)</b>	Balance as at 31/03/2016	<b>(2,424)</b>

(\*) Includes provision for school claims

- **Insurance Provision:** the provision exists to cover the cost of outstanding liability claims. The year-end balance is confirmed by an external actuary who also advises on the level of contribution which should be made each year to the provision which is included with the insurance budget. The increase in year is, in part, attributable to a high value claim (see 3.6) which has recently been defended.
- **Insurance Reserve:** the reserve is maintained in the event of a catastrophe where the Council is required to cover the first £250,000 on any building claim. It is also used to balance any fluctuation that might be required in the overall provision level or additional costs associated with historic Municipal Mutual Insurance Claims.

## **5. Other Issues**

### **➤ Ministry of Justice Reforms**

- The Ministry of Justice (MOJ) reforms introduced to control third party legal costs for claims (with a value less than £25,000), came into effect on 1st August 2013. We are now beginning to see the savings these controls have for the Council.
- To date, we have paid 28 claims under these fixed costs rules and the average third party legal costs for these claims were £2,492. This compares with an average third party legal cost of £7,917 for fast track claims which occurred and were settled in the three year period prior to the reforms.
- Whilst the reforms are still in their infancy the above comparison provides an indication of costs we are likely to see going forward.
- Whilst the Ministry of Justice reforms represent a positive step forward in controlling third party legal costs, the best control we have is the ability to provide a robust defence. This is a constant focus of the insurance team as they work with the various departments when investigating claims and monitoring the claims experience.

### **➤ Update on the Joint Venture with Amey**

- The responsibility of highways inspections, repairs and maintenance functions was transferred to Amey on the 4th July 2015. The responsibility for claims handling was kept in-house to allow us to efficiently manage claims, maintain reputation with our tax payers and allows us to monitor the performance of Amey. Failure to comply with claims handling timescales could result in additional cost to the Council and failure to benefit from the MOJ reforms above.

### **➤ Insurance Market Overview**

- The Public Sector Insurance Market suffers from lack of competition when compared with the commercial market. However, we are hearing of new insurers and initiatives entering the market in the next 12 months which is positive news.
- As these products are currently in their infancy, we will seek feedback on the success and longevity of these market entries via our Insurance Brokers.
- On the Casualty front, Insurers continue to have serious concerns over the long-tail development of child sexual exploitation claims, children's services claims generally and highways claims which form a significant part of our claims experience.
- These concerns have put considerable pressure on Public and Employers liability rates and we have been advised by our peers, which form the North West Insurance Officers Group (NWIOG), that these rate increases have impacted on many and some more significantly than others, depending on their current claims experience.

- As per renewal this year, we will continue to review our claims experience periodically, liaise with internal departments to strengthen our risk management approach and seek renewal terms well ahead of time.
- Our continued aim is to actively contribute to the Council's overall budget position by reducing insurance costs where possible. We will continue to challenge insurer's rationale for increases and continually review cover and new products that enter the market to ensure adequate levels of cover are in place and all our premiums are competitive.

➤ **Renewal 2016/17**

- As detailed in the Market Overview, insurer's views on historical claims have put pressure on Public and Employers liability rates and we have seen rate increases as a result. Insurers were initially proposing a 20% increase on our Public Liability policy; however, we managed to mitigate this increase by seeking full rationale and using our claims experience as leverage.
- We know from discussions within the NWIOG that many other authorities were seeing substantially higher increases compared to us and we feel that by continually reviewing our risk in line with our claims experience was the main factor that we were able to reduce the proposed increase to 15%.
- The Insurance Team worked hard to review all insurable risks on the lead up to renewal, together with evaluating our programme structure as we committed to do in our 2014/15 report. This work resulted in revised property portfolios, sums insured which accurately reflects our current structure and ultimately helped us achieve a premium saving overall, which is undoubtedly a positive outcome given the hardening market we are currently working in.
- We are pleased to report that, despite these market pressures, not only have we successfully negotiated our 2016/17 renewal within budget, but we also achieved a saving of £19,818.

➤ **Corporate Fraud Initiative**

- Since November 2015, The Insurance and Corporate Fraud teams have started working in collaboration to detect insurance and benefit fraud.
- Regular monitoring meetings have been established and monthly reports of claims that may require further investigation are provided to the Corporate Fraud Team. We engage the use of social media to carry out background checks of those whom seem intent in making a spurious claim against the Council and we have also implemented an in-house fraud checklist which acts as the first trigger point for investigation.
- The intention of this work is not only to act as a deterrent in respect of fraudulent insurance claims, but also to help identify whether benefits are being given appropriately, for example single person council tax discount. If it is found that a claimant is also in Council Tax arrears, then future consideration is being given to how to recover these from any potential insurance award.
- This is a new initiative for us and whilst it may take some time to quantify results in monetary terms, we feel that the results in respect of reputation are

paramount. We are continually striving to look for new and innovative ways of protecting the insurance provision and reputation of Trafford.

➤ **Future Issues and Plan**

- In 2014, we undertook an insurance tender and entered into a long term agreement with our current provider on a 3 year contract with an option to extend for a further 2 years. The initial 3 year period is due to expire on 31/03/2017, and we will be seeking advice from our insurance broker to assess if the optimum time to re-tender is now or whether we should extend the contract for a further 2 year period.
- In light of some much publicised cases of cyber (data) theft, such as Talk Talk and Morrisons, whose customers and staff suffered security breaches to their personal and banking details, we intend to carry out a review of our current cover to ensure that the Council is adequately protected in the event of such a breach.
- Following changes brought about by the Amey transfer we are refreshing the Insurance Guide for Managers. This is timely as the Insurance Act 2015 comes into effect in August 2016 which places a new duty on a policyholder to disclose material circumstances that they ought to know. The Act clarifies that information must be obtained from the policyholder's senior management. Failure to demonstrate that a fair presentation of risk has been disclosed at renewal can have an adverse effect on the insurer's willingness to pay claims.
- We are also looking at options for a new claims management system as the current system is no longer being supported by the developer.

## Trafford Council

### Current Insurance Programme

Limit of Indemnity	Sum Insured BI Max Indemnity Period 36 months	£50m EL	£50m PL	Unlimited TP Injury £20m TP Damage	Accidental bodily injury, death, disablement or the incurring of Medical Expenses	Various Physical loss of money	£5m Financial loss sustained as a result of a criminal act	£5m
Policy	Property Damage / Business Interruption	Employers' Liability / Officials Indemnity	Public Liability	Motor	Personal Accident	Money	Crime / Fidelity Guarantee	Professional Negligence
Insurer	Zurich Municipal	Zurich Municipal	Zurich Municipal	Amlin	Zurich Municipal	Zurich Municipal	Zurich Municipal	Zurich Municipal
Deductibles	£250,000	£275,000	£275,000	£1,000	Nil	£250	£10,000	£100,000
Stop Loss	Aggregate £1M	Aggregate £2M	Aggregate £2M					

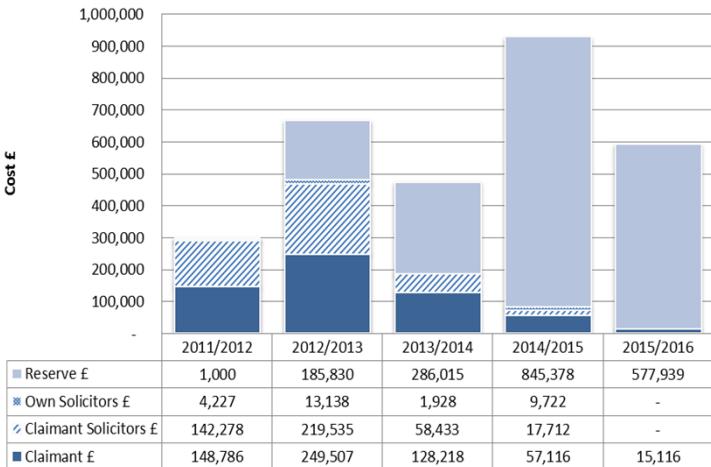
## Claims Activity Report

<b><u>Claim Numbers</u></b>	2015/2016						2014/2015					
	Highway	PL	EL	Liability Total	Motor	Total	Highway	PL	EL	Liability Total	Motor	Total
Live Claims b/f	270	64	42	376		376	229	73	34	336	68	404
New Claims Received	245	59	11	315		315	234	53	18	305	27	332
Settled Claims	237	52	14	303		303	193	62	10	265	12	277
Claims c/f	278	71	39	388	0	388	270	64	42	376	83	459
Net Change in Claim Numbers	8	7	(3)	12	0	12	41	(9)	8	40	15	55
<b><u>Cost of Settled Claims</u></b>	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>			<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>		
Claimant Costs £	247	27	50	324			216	129	100	445		
Claimant Solicitor Costs £	135	11	55	201			119	123	51	293		
Own Solicitor Costs £	15	7	4	26			6	45	4	55		
Total £	397	45	109	551			341	297	155	793		
<b>No of Claims Settled at Nil</b>	167	35	8	210			124	36	3	163		
<b>Repudiation Rate of Settled Claims</b>	70%	67%	57%	69%			64%	58%	30%	62%		
<b>Average Cost of Settled Claims</b>	5,671.43	2,647.06	18,166.67	5,924.73			4,942.03	11,423.08	22,142.86	7,774.51		

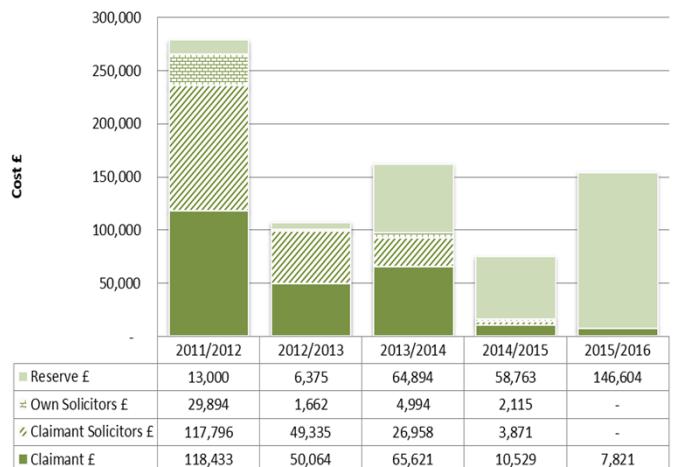
- This table represents the on-going claims activity carried out within the year, irrespective of when the claim occurred.
- The costs and key statistics relate only to claims settled within the relevant financial year.
- Does not include for a small number of property and other claims.

## Claims Activity Report by Policy Year

### Highway Claims



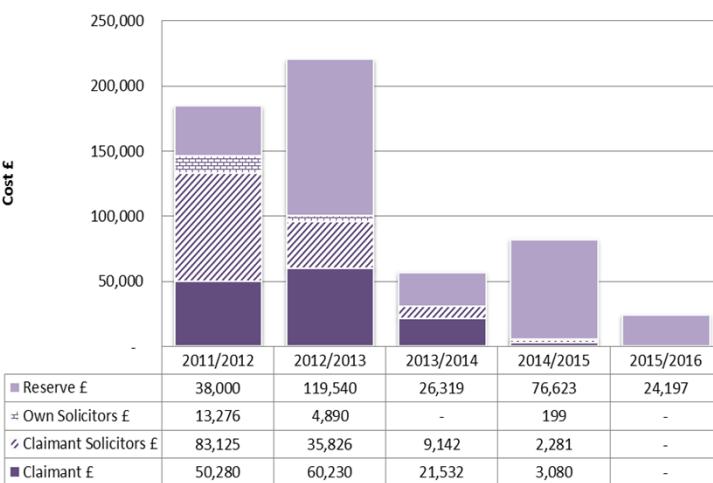
### Public Liability Claims



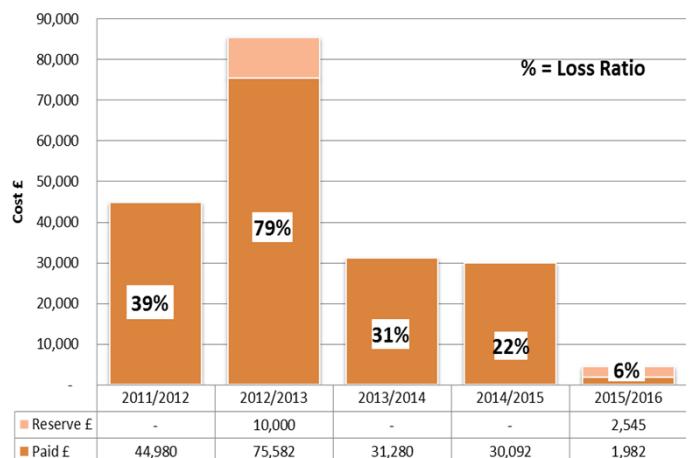
Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Rep Rate
2011/12	242	1	241	177	64	73%
2012/13	349	13	336	264	72	79%
2013/14	228	15	213	149	64	70%
2014/15	253	57	196	153	43	78%
2015/16	209	180	29	16	13	55%

Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Rep Rate
2011/12	66	1	65	41	24	63%
2012/13	71	3	68	50	18	74%
2013/14	68	7	61	42	19	69%
2014/15	44	12	32	27	5	84%
2015/16	48	30	18	10	8	56%

### Employers' Liability Claims



### Motor Claims



Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Rep Rate
2011/12	18	2	16	5	11	31%
2012/13	11	4	7	4	3	57%
2013/14	8	2	6	1	5	17%
2014/15	7	5	2	1	1	50%
2015/16	2	2	0	0	0	0%

Policy Year	No of Claims	Paid £	Reserve £	Total Incurred £
2011/12	30	44,980	-	44,980
2012/13	23	75,582	10,000	85,582
2013/14	24	31,280	-	31,280
2014/15	21	30,092	-	30,092
2015/16	9	1,982	2,545	4,527