

## TRAFFORD COUNCIL

**Report to:** Accounts & Audit Committee  
**Date:** 26<sup>th</sup> November 2020  
**Report of:** Corporate Director of Finance and Systems

### Insurance Performance Report 2019/20

#### Summary

This report provides a summary of insurance performance for 2019/20:

- Gross cost of the insurance activity was £1.118m; comprising £470k of premium costs and £648k for claims. Savings in costs of premiums and a reduction in the number of claims resulted in a net underspend of £287k against budget.
- The provision for outstanding liability claims was £3.162m as at 31 March 2020, compared to £3.030m as at 31 March 2019, an increase of £132k.
- Claim numbers decreased with 390 new claims compared to 520 in 2018/19.
- Repudiation rates for liability claims is 71%, currently defending approximately 3 out of every 4 claims the Council receives.

#### Recommendations

That the report be noted.

Contact person for access to background papers and further information:

Name: Dave Muggeridge

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Background Papers: None

## 1. Introduction

1.1 This report updates the Committee on the Council's insurance activities for 2019/20 and the report focuses on:

- **Section 2** - Cost of Insurance
- **Section 3** - Claims
- **Section 4** – Achievements/Outlook

## 2. Cost of Insurance

2.1 The current insurance programme covers a broad range of insurable risks and a summary of these policies and the applicable insurers is shown in **Annex 1**.

2.2 Premium and claims costs are the main items of expenditure for the insurance budget with an annual provision made to cover the estimated cost of claims. An Insurance Risk Reserve is also available to absorb and smooth out any significant pressures during years when claims exceed the net revenue budget.

2.3 The Council's Insurance Provision was £3.162m as at the 31<sup>st</sup> March 2020 and is the amount set aside by the Council to meet the cost of claims that fall within the Council's elected policy excesses as detailed in Annex 1. The level of provision is subject to review by an external Actuary, on a biennial basis, taking into account the likely cost of claims received and an estimate of those claims yet to be reported (based on past claims experience).

2.4 The Insurance Risk Reserve is maintained in the event of a catastrophic insurance loss or a large number of high claims, to balance any fluctuation in the overall provision level and additional costs associated with historic Municipal Mutual Insurance claims. A review of all reserves is undertaken as part of our annual processes and as a result, the Insurance Risk Reserve was marginally increased by £29k to £1.9m. This would be sufficient to cover the excess of up between three and four large insurance claims where the Council would be required to cover the first £275k/£250k. Plus figures of £500k potential additional costs associated with historic Municipal Mutual Insurance Claims and a balance of £400k to smooth any fluctuation in provision level and cover any uninsured losses over budget.

2.5 The 2019/2020 net budget for insurance activity of £753k consists of insurance premiums of £586k, provision for claims of £712k, provision for self-insured loss claims of £100k (which are largely property related) and income from recharges to schools and trading functions at £645k.

2.6 The net outturn cost of the insurance activity for 2019/20 was £466k resulting in an underspend against budget of £287k, which was declared in line with the Council's general outturn. The insurance portfolio was tendered in April 2019 and as a result produced premium saving costs of £116k. The in-year contribution to the provision was £175k lower than originally estimated due to lower claims costs. Self-insured claims were marginally higher than budget by £11k, due in large to one storm damage claim within a school. Additional income was received from schools resulting in a positive movement of £36k.

A contribution was made of £29k to bring the Insurance Reserve to a revised closing balance of £1.9m as explained in paragraph 2.4.

<b>Table 1 – Insurance Expenditure for 2019/2020</b>	<b>Budget £000</b>	<b>Actual £000</b>	<b>(Under)/ Over Spend £000</b>
<b>Premiums</b>	586	470	(116)
<b>Provision for Claims</b>	712	537	(175)
<b>Self-insured Loss Claims</b>	100	111	11
<b>Gross Cost</b>	<b>1,398</b>	<b>1,118</b>	<b>(280)</b>
<b>Income</b>	(645)	(681)	(36)
<b>Contribution to/(from) reserves</b>		29	29
<b>Net Cost</b>	<b>753</b>	<b>466</b>	<b>(287)</b>

- 2.7 The balances of the Insurance Provision and the Insurance Risk Reserve at the 2019/2020 year end were as follows:-

<b>Table 2 – Provision and Reserve Balances</b>			
<b>Provision</b>	<b>£000:</b>	<b>Insurance Risk Reserve</b>	<b>£000:</b>
<b>Balance as at 01/04/2019</b>	<b>(3,030)</b>	<b>Balance as at 01/04/2019</b>	<b>(1,871)</b>
Less Claims Paid	405	Contribution from Revenue	(29)
Reassessed Provision	(537)		
<b>Balance as at 31/03/2020</b>	<b>(3,162)</b>	<b>Balance as at 31/03/2020</b>	<b>(1,900)</b>

### 3. Claims

#### 3.1 Activity

<b>Financial Year</b>	<b>Amount Paid in Claims Across All Policy Years (01/04/1992 to 31/03/2020) £000</b>	<b>Number of New Claims Received and Processed in Year</b>
<b>2019/2020</b>	<b>405</b>	<b>390</b>
<b>2018/2019</b>	634	520
<b>2017/2018</b>	544	431

- 3.2 Current claims paid during 2019/2020 are £405k a reduction of 36% when compared to 2018/19. A positive contributor to this is that no high value claims (ie those over £50k) were settled.

- 3.3 We have also seen a 25% reduction in claim numbers for 2019/2020, mainly due to a decrease in the number of highway property claims. The Insurance team continue to work in partnership with the wider Highway teams to ensure this positive trend continues.

#### 3.4 Overall Claims Profile.

**Annex 2** provides the current claims experience over the last five policy years. We have broken down the claims across the main five classes; Employer's Liability, Highway Injury, Highway Property, Highway Trees and Public Liability.

**3.5 Trends and Observations:**

**3.6 Employer's Liability** – the frequency of claims continues to be extremely low across all years. This reflects Trafford's office based workforce and the systems and controls in place to help mitigate and manage risk. It is worthy of note that since the Amey contract was let in July 2015, most frontline services and their associated risks transferred to Amey.

However, we currently have one high value claim with an estimated value of £0.363m relating to an incident which occurred in 2017. Given the nature of this claim, external Solicitors have been appointed and we are advised that this claim is one which Trafford can successfully defend.

**3.7 Highway Injury** – Claim numbers remain consistent, however, we do expect claim numbers to increase in 2019/2020 as the number of claims will continue to be received relating to that year (for instance claims can be made up to three years post incident).

**3.8 Highway Property** – 2019/2020 saw a reduction of almost a third at 206; down from 299 claims in 2018/2019 and 300 claims in 2017/2018. This reduction was due to additional investment in highways infrastructure financed from the Pot Hole Action Fund Grant plus the combination of favourable weather conditions over the winter period.

**3.9 Highway Trees** – A growth in the number of Tree liability claims is beginning to be seen, this increase is not unique to Trafford, nevertheless, we are engaging early with Insurers and our Solicitors to greater understand the contributing factors. We have risk management work scheduled to help us mitigate this risk and strengthen current policies and procedures to ensure we are best placed to defend and mitigate these claim costs.

**3.10 Public Liability** – The public liability claims which span across various Council departments remain consistent. However, although the claims numbers are relatively low, claims from Social Services do have the propensity to be extremely costly. We are beginning to see a rise in the frequency of claims in light of high profile decisions in both the Court of Appeal and the Supreme Court where Councils have been criticised for their actions under the Human Rights Act.

Currently, we have four of these types of claims which total £559k of the total outstanding estimate provision value of £813k.

### 3.11 Defence Rates

<b>Class</b>	<b>Number of Closed Cases between Policy Years 01/04/2015 and 31/03/2020</b>	<b>Number of Closed Cases Defended between Policy Years 01/04/2015 and 31/03/2020</b>	<b>Defence Rate</b>
<b>Employer's Liability</b>	11	10	91%
<b>Highway – Injury</b>	340	280	82%
<b>Highway – Property</b>	963	683	71%
<b>Highway – Tree</b>	151	87	58%
<b>Public Liability</b>	167	106	63%
<b>Total</b>	<b>1,632</b>	<b>1,166</b>	<b>71%</b>

- 3.12 We have a positive defence rate across all policies of 71%. If we look at the defence rates in isolation, this increases to 82% in respect of Highways Injury and 91% for Employer's Liability risks. The continued work we do to maintain such high defence rates, allows us to demonstrate to Insurers that Trafford remains a good risk; helping to manage premium rate levels.
- 3.13 As previously stated, we are beginning to see an increase in tree liability claims and which currently have a much lower defence rate at 58%. Highway tree claims are dealt with under the Law (Tort) of nuisance. This means that the Law can impose strict liability against the Council; where no intent or fault is required. Consequently, these claims are very difficult to defend.
- 3.14 Public Liability defence rates remain strong at 63%. An investigation into incident circumstances is undertaken on all new claims with a dedicated Claims Inspector to support Council teams throughout this process and help mitigate any potential loss.

## **4. Achievements / Outlook**

### **4.1 LGA Mutual**

Trafford Council, along with thirteen other councils, and the Local Government Association (LGA), have joined together to establish the new Local Government Hybrid Discretionary Mutual (LGDM). It is drawing on best practice from other mutuals and aims to offer a cost-effective alternative to traditional insurance. It will use local government capabilities and resources more effectively to manage and, where possible, reduce the cost of risk whilst continuing to work with the insurance market to procure protection against large losses.

As the mutual was not operational at the time of our own insurance tender, they were unable to provide us with a quotation.

As a Founding Member, and with representation by the Leader of the Council on the Board of Directors, we continue to offer our support by sharing information and attendance at meetings, where required. The Mutual is currently undergoing a period of self-review and it is understood that they are set for a relaunch sometime soon.

We will continue to support and engage with the Mutual and watch their offering with interest.

### **4.2 Insurance Market Update**

The insurance market is facing some of the most challenging conditions for many years. Previously Insurers were competing hard for business and this saw falling premium rates, however, rates are now increasing and some insurers are withdrawing from the market place.

Some of the main factors affecting the insurance market are climate change – 2017 was the costliest year on record for weather disasters, valued at approx. USD\$136bn. Insurers were also hit hard by the UK floods of 2019 and the effects and frequency of global catastrophes sees re-insurance costs continue to rise.

The Grenfell Tower fire has further exacerbated insurer caution when it comes to the property risks and the construction of buildings. We need now more than ever, to effectively demonstrate that Trafford and their partners are investing in risk management strategies.

The appetite of those Insurers who continue to write cover has changed whereby they are only willing to write well managed risks, despite this, some insurers are offering reduced insurance cover whilst seeking increased premium levels and more onerous terms and conditions.

Trafford's insurance programme underwent a full Tender Exercise in April 2019 and entered a five year Long Term Agreement with our incumbent Insurer. This agreement gives some certainty on our premium ratings and programme coverage providing Trafford with protection against volatility in the insurance market.

### 4.3 Covid-19

The impact of the pandemic on the insurance industry will undoubtedly be severe, we have seen premium levels increase on certain lines of business, such as travel and events and Insurers move away from cover on financial lines such as Directors and Officers Liability.

Whilst the full impact of the economic fallout has yet to emerge, on a local level, we have seen an increase in travel claims/cancellation as per the table below. These claims stem from planned school journeys impacted by travel restrictions, whilst many schools have been able to make alternative arrangements with their travel providers, we have received 21 claims from schools seeking refunds.

Year	Number of School Journey Claims
2018/2019	2
2019/2020	0
2020/2021 to date	21

Whilst the number of claims received has risen significantly, the cost of these types of claims is low. Insurers have settled 13 claims to date, the average cost of which is £1,000.

A positive impact of the pandemic felt by Local Authorities is the sharp fall in road traffic use and footfall since April 2020 and the resulting drop in claims numbers. The Highways team have continued with investment work and have utilised this time as an opportunity to get ahead with repairs. However, with an increase in cycling routes and new cycle lanes, we may begin to see an increase in claims involving cyclists. Also, any economic downturn tends to see an increased risk of claims and in particular, the potential for the increase in fraudulent claims.

### 4.4 Insurance Renewal 2021

Given the outlook of the insurance market detailed above, these external factors will undoubtedly impact on our premium rates going forward. As part of the renewal process, Insurers utilise the current claims experience to evaluate risk and formulate the premium ratings, therefore, we estimate that our premiums may increase at renewal stage, however, the insurance team will endeavour to negotiate any increase to a minimum.

#### 4.5 **Cyber and Data Risks**

Bespoke Cyber and Data cover is another area of insurance cover that has continued to harden over the past few years, making cover difficult to place and expensive to insure. Unlike Commercial entities, the cover available to Local Authorities is limited.

However, whilst the Council does not currently hold a separate specialist Cyber policy, there are elements of cover via the wide range of policies held with our current Insurer. Discussions continue to be held with all Council departments to establish the total cost of risk by evaluating our insurance programme alongside departmental action plans and recovery strategies in the event of a breach.



## Trafford Council Current Insurance Programme

Policy	Property Damage / Business Interruption	Employers' Liability / Officials Indemnity	Public Liability	Motor	Personal Accident	Money	Crime	Professional Negligence	Commercial Investment Properties
Limit of Indemnity	Declared Value  Business Interruption Max Indemnity Period 36 months	£50m Employers Liability  £2m Officials Indemnity	£50m	Unlimited Third Party Injury £5m Third Party 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	Declared Value
Insurer	Zurich Municipal	Zurich Municipal	Zurich Municipal	Zurich Municipal	Zurich Municipal	Zurich Municipal	Zurich Municipal	Zurich Municipal	Zurich Commercial via Marsh
Excess	£250,000	£275,000	£275,000	£1,000	Nil	£250	£10,000	£100,000	£250
Aggregate Stop Loss*	£1M	£2M	£2M						

\* Provides budget certainty – Trafford’s claims exposure is capped per policy year. Once the ASL is breached, insurers pay all claims thereafter, no excess required.

## Claims History by Policy Year as at 31/03/2020

Annex 2

Class of Business	2015/2016			2016/2017			2017/2018			2018/2019			2019/2020		
	No of Claims	Paid £000	Res £000	No of Claims	Paid £000	Res £000	No of Claims	Paid £000	Res £000	No of Claims	Paid £000	Res £000	No of Claims	Paid £000	Res £000
<b>Employer's Liability</b> 	2	0	0	6	13	0	5	0	395	1	1	7	4	0	40
<b>Highway Injury</b> 	91	231	0	89	417	46	81	53	118	81	90	116	64	15	381
<b>Highway Property</b> 	124	12	0	133	11	0	300	33	0	299	48	18	206	15	111
<b>Highway Tree</b> 	33	33	0	30	45	5	40	37	61	46	19	47	54	22	75
<b>Public Liability</b> 	53	86	199	36	20	69	38	41	0	43	62	235	24	1	310
<b>Total</b>	<b>303</b>	<b>362</b>	<b>199</b>	<b>294</b>	<b>506</b>	<b>120</b>	<b>464</b>	<b>164</b>	<b>574</b>	<b>470</b>	<b>220</b>	<b>423</b>	<b>352</b>	<b>53</b>	<b>917</b>

The total of the provisions (Res column) above is £2.233m for the policy years 2015 to 2020, the provision also includes £929k relating to the policy years 1992 – 2015 bringing the total balance to £3.162m