

## TRAFFORD COUNCIL

**Report to: Accounts & Audit Committee**

**Date: 26 June 2014**

**Report for: Information**

**Report of: Director of Finance**

### Report Title

**Insurance Performance Report 2013/14**

### Summary

This report provides a summary of insurance performance for 2013/14.

The gross cost of the insurance activity (excluding schools) for 2013/14 is £1.437m, comprising £0.380m of premium costs and £1.057m provision for claims. The overall liability claims provision was £3.759m representing an increase on budget of £0.252m due to an updated assessment in respect of claims from previous years.

The Council's entire insurance portfolio was tendered for 2014/15 onwards. An insurance package that fell within budget was secured despite a hardening insurance market and fewer insurers wishing to tender for the complete range of Council insurance requirements.

A premium rebate of £32,287 was received to reflect a good claims experience in respect of policy year 2010/11.

Overall liability claim numbers decreased in 2013/2014 with 321 new claims compared to 427 in 2012/2013. A mild winter contributed to the decrease in claims for the last year.

Repudiation rates on liability claims improved on 2012/13 with highway repudiation levels increasing to 79% from 74%.

### Recommendations

That the report be noted.

Contact person for access to background papers and further information:

Name: Graeme Bentley

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Background Papers: None

## 1. Introduction

1.1 This report concerns the Council's non-schools insurance activities for 2013/14 and the purpose is to update the Committee on:-

- Performance in respect of the major classes of insurance.
- The current budget position.
- Insurance tender and initiatives.

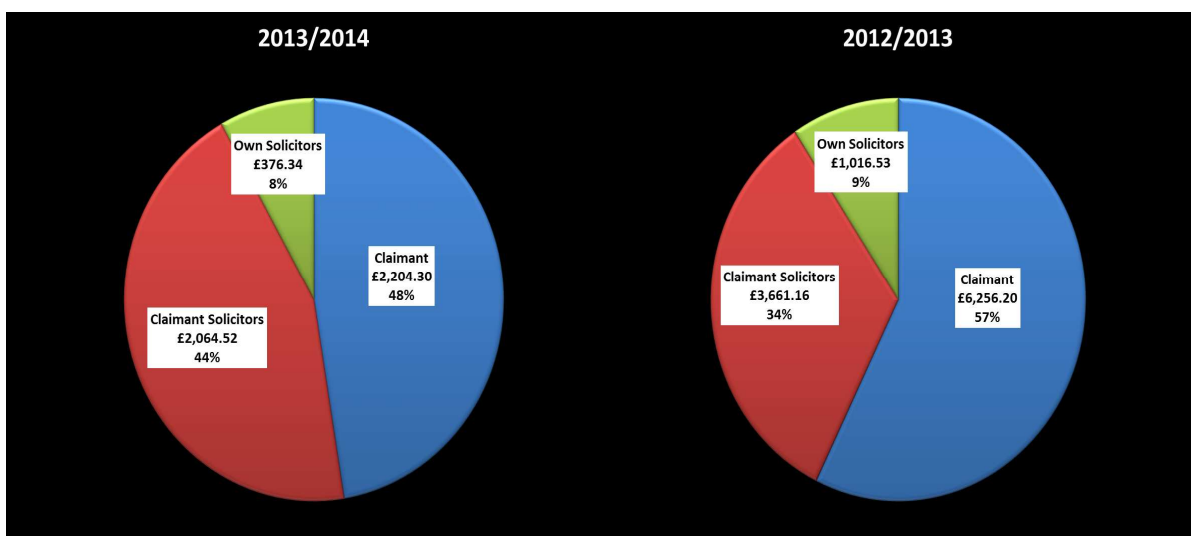
## 2. Performance Update

2.1 During 2013/14 the Council received 321 new insurance claims compared to 427 in 2012/13. The majority of these, 73%, were highway related claims. **Annex 1** provides information on the level of activity in 2013/14 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.

2.2 Claim numbers have reduced by 25% which is due to fewer highway claims being received following the milder winter in 2013 in contrast to 2012.

	2013/14	2012/13
Live Claims b/f	430	374
New Claims Received in Year	321	427
Settled Claims in Year	415	371
Live Claims c/f	336	430

2.3 The average cost of settled claims in 2013/14 was £4,645 and shows a large reduction from the 2012/13 average of £10,934. Two large historic claims were settled during 2012/13 and allowing for these the average cost reduces to £6,388. The reduction in 2013/14 reflects the large number of low value vehicle claims which were received during the winter 2012 and were settled in 2013/2014, the majority of which were successfully defended. The following chart provides a breakdown of the average costs of claims.



2.4 **High value claims** are claims which carry a reserve of £50,000 and above. As at 31 March the Council had 9 outstanding high value claims with an estimated total value of £918,459 and is reflected within the current insurance

provision. This compares with 7 outstanding claims with an estimated total value £756,443 as at 31/03/2012. High value claims which have been received in year are summarised in the commentaries below. The claims range across a number of policy years and are managed by specialist claim handlers/solicitors and monitored by the insurance team.

- 2.5 Detailed within **Annex 2** is the claims information relating to policy years for the main classes of insurance for the last five years which shows the trends in claims costs and claim numbers. The following paragraphs provide a commentary for the major insurance classes.

### **3. Public Liability – Highway Claims**

- 3.1 Highway claims represent the largest risk to the Council both in terms of cost and volume. Over the five year period to 2013/14 the average annual cost of claims was £530,875. This figure is inflated due to 2012/13 and 2013/14 being immature years due to the number of outstanding claims which all carry a reserve. It is expected that the greater majority of these claims will be repudiated.
- 3.2 There are still 10 outstanding claims for 2010/2011 with a reserve of £233,758; many of the claims have been litigated and are with the Council's external solicitors who are either repudiating the claim or negotiating settlement on best terms possible for the Council. Also a large claim was made in 2013/2014 with a reserve of £230,000 which is due to be repudiated as it occurred on a private road which is not the Council's responsibility. When this is successfully repudiated the reserve figure will reduce accordingly. (See Para 7.1).
- 3.3 The majority of highway claims are repudiated, a result of a positive approach in defending claims and effective internal claim handling processes between the Council's Highways and Insurance teams and with the Insurers. 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 as Highway Authority to maintain the highway network for which it has responsibility for. For there to be a breach of Section 41 of the Act, there must have been a failure to maintain or a failure to repair.
- 3.4 A defence to claims against the Council is provided by Section 58 of the Act. This may be used to defend Highways 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 had in place adequate policies and procedures to maintain the highway, that these were being performed, a claim can be repudiated.
- 3.5 The ability to defend an insurance claim is based on the effectiveness of the highway inspection regime and the subsequent repair of any defects that are identified. The table below shows the reasons why claims were settled in 2013/14 compared to 2012/13.

Reason for Settlement	Number of Claims 2013/14	Number of Claims 2012/13
Defect not picked up in carriageway	2	4
Defect not picked up in footway	8	9
Failure to repair carriageway	36	29
Failure to repair footway	0	2
No inspection of carriageway	9	13
No inspection of footway	3	8
Tree damage	5	4

3.6 There has been an increase in the number of cases of “failure to repair” which is currently under review. There are currently a large number of actionable defects that are programmed for repair as a result of:-

- An increase in the number of defects from the winter period identified on inspection.
- Competing demands on the revenue budget in respect of the range of highway activity.

3.7 To assist local authorities the Government made available £140m at the end of 2013/14, of which the Council received £235k, with a further bid fund of £200m available in 2014/15. A bid has been made by the Council and a decision is awaited soon. Any grant secured will be utilised to cover this backlog of defects, with any capital element used to supplement the planned maintenance programme. It is a priority that these outstanding actionable defects are repaired in order to reduce the Council's exposure to future claims. It is important that planned structural maintenance programmes continue to be supported in future year's capital programme bidding rounds in order to avoid further deterioration in the highway network.

#### **4. Public Liability – Other Claims**

4.1 Other public liability claims across all other services in the Council are not as common as Highway claims but can be a significant cost to the Council. Examples of these types of claims are incidents in parks, libraries and other community buildings or involving social services.

4.2 Claim numbers are consistent; in 2013/14 we received 74 new claims compared with 67 in 2012/13. Repudiation rates are not as high as Highways because claims are spread out amongst various service areas which may not have the same level of systems in place to defend claims as Highways.

4.3 In 2013/14 the Council received a high value claim relating to social services for an incident which occurred in 2011/12; the case is a very sensitive one and carries a reserve of £250,000. This one case accounts for the high value in that year.

## **5. Employers' Liability Claims**

- 5.1 Employers' Liability claims represent the smallest claims in terms of volume but represent a significant cost to the Council. In 2013/14 we received 14 new claims compared with 18 in 2012/13. These claims are usually more complex than public liability claims and can take many years to resolve.
- 5.2 Claims are received across the entire range of services within the Council from office based staff to Groundforce operatives, from school cooks to librarians.
- 5.3 The value of claims by employees can quickly escalate so additional procedures are in place with the insurers to investigate these claims to mitigate costs. (for further details see Section 9 Ministry of Justice Reforms)

## **6. Motor Vehicle (Fleet) Claims**

- 6.1 The fleet is insured on a comprehensive policy. For damage to fleet vehicles there is a deductible (excess) of £5,000, with the first £1,000 being met by the relevant service department. Third party damage is paid in full by the insurers.
- 6.2 Motor claims continue to decrease in number commensurate with the decrease in fleet size. In 2013/14 only 22 claims were received, this is down one third when compared with 2011/12; the fleet has also reduced approximately one third since then.
- 6.3 In 3 of the last 5 years our claims experience has exceeded £100,000 and this limits the number of insurers willing to tender as currently we are not an attractive risk, This was evident in the recent tender process.
- 6.4 Claims costs for 2013/14 have reduced with a total incurred of £37,066 compared with £102,293 in 2012/13. If future costs can be maintained to this level then it will present the Council as a more attractive customer to potential insurers.

## **7. Insurance Budget**

- 7.1 The cost of non-schools insurance in 2013/14 is £1.437m, compared to a revised budget of £1.201m, comprising premiums of £0.380m and provision for the cost of liability claims of £1.057m. The increase in insurance costs of £0.236m is explained by:-
  - Net increase in provision for claims £0.252m - The provision amount set aside to cover liability claims is based on an independent actuary report. Following the latest report there has been an increase in the provision levels. This is due to a number of high value claims being received in the last year. (See sections 3 and 4 for details).

- Reduction in premium costs £0.016m - reflecting the Council's reduced risk exposure on casualty and property premiums, in part due to a reduction in sums insured and staff salaries.

	2012/13 Actual £000	2013/14 Projected £000	2013/14 Actual £000	Estimate/ Actual Variance £000
<b>Premiums:</b>	<b>392</b>	<b>396</b>	<b>380</b>	<b>(16)</b>
Casualty	179	182	172	(10)
Property	79	80	74	(6)
Fleet	125	125	125	0
Money, Fraud	9	9	9	0
<b>Provision:</b>	<b>1,203</b>	<b>805</b>	<b>1,057</b>	<b>252</b>
Liability Highway	633	538	790	
Liability Other	151	267	267	
MMI Provision	419			
<b>Gross Expenditure</b>	<b>1,595</b>	<b>1,201</b>	<b>1,437</b>	<b>236</b>
Less Income (Non Schools DSG and DSO)	(239)	(239)	(239)	0
Planned transfer to/(from) reserve	(659)	(145)	(381)	(236)
Rebates	(50)	(32)	(32)	0
<b>Net Expenditure</b>	<b>647</b>	<b>785</b>	<b>785</b>	<b>0</b>

## 8. Tender

- 8.1 The Council's current insurance arrangements with Travelers ceased on 31 March 2014 so a procurement exercise was undertaken. A number of tenders were evaluated across various insurance "lots".
- 8.2 Only two insurers bid for the full portfolio of policies, Zurich Municipal and Risk Management Partners. The current insurer, Travelers, did not bid for all lots and for some major policies put high tender figures in reflecting a possible lack of appetite for local authority business going forward.
- 8.3 Bids were evaluated based on price (50%), cover (40%) and support (10%) and summary scores are shown below. Zurich Municipal offered a discounted package price which proved to be the best option for the Council apart from the motor policy which remained with the current insurer, Summit and the engineering inspection policy which was placed with a company called HSB.

Lot / Policy	Provider	Score
<b>Lot 1 Property</b>	Zurich Municipal	85.09%
<b>Lot 2 / 11 Liability &amp; Claims Handling</b>	Zurich Municipal	90.88%

<b>Lot 3 Motor</b>	Summit	90.36%
<b>Lot 4 Contract Works</b>	Zurich Municipal	92.00%
<b>Lot 5 Computers</b>	Zurich Municipal	100.00%
<b>Lot 6 Personal Accident / Travel</b>	Zurich Municipal	96.36%
<b>Lot 7 School Journeys</b>	Zurich Municipal	97.82%
<b>Lot 8 Fidelity Guarantee / Crime</b>	Zurich Municipal	95.08%
<b>Lot 9 Engineering Inspection</b>	HSB	96.31%

8.4 The overall premium costs (including schools) for 2014/15 is £765,000 and exceeds budget provision by £2,000 which will be met from reserves.

## **9. Ministry of Justice Reforms**

9.1 The Ministry of Justice reforms came into full effect during 2013/14. Whilst this is good news for the Council as these reforms will control third party legal costs it does place more restrictive timescales in investigating claims for the Council. To comply with these timescales the Council has:

- Arranged with the insurers that all employers' liability claims are now investigated by an inspector from the insurers and a member of the insurance team within two weeks of receiving the claim.
- All public liability claims are monitored weekly to ensure they fall within prescribed timescales as set out in the new reforms.

9.2 These reforms are in their infancy and we are still waiting for a claim to be settled through the portal process. The insurance team's procedures will continue to evolve as the reforms develop.

9.3 Self-represented claims fall outside of these protocols but will still be handled in the same efficient manner as represented claims are.

## **10 Initiatives**

10.1 In response to a number of thefts of IT equipment from schools a support document was produced and sent to all schools providing practical guidance to protect their property. A winter maintenance guidance sheet was also sent to schools to assist site managers.

10.2 From the summer of 2013 a Highway Property Claim Form was sent to all claimants who have damaged their vehicle due to the highway. The form captures all the details we need to investigate the claim thoroughly and advises the claimant of the claims procedure and the Council's legal duty in maintaining the highway under the Highways Act 1980. To date 96 forms

have been sent and 58 have been returned. This reflects a “drop-out” rate of 40% and compares to 47% since the last report in February 2014. .

- 10.3 The maintenance for Sale Water Park was brought back in house on 1 January 2014. To assist Partnerships and Communities / Environmental Strategy in managing the risks at Sale Water Park the Insurance team co-ordinated a number of site visits with a Risk Management advisor from AON, who provided a report which is used a basis for managing risk at the park.

## **11 Future Issues and Plan**

- 11.1 Our brokers, AON, have recommended the Council seriously considers extending their insured perils to include terrorism cover. The Council does not currently take out terrorism cover, in view of the recent development of the town hall and subsequent rationalisation of administrative buildings it is a consideration we need to make.
- 11.2 With the Council’s current review of operating model to meet reduced governmental funding there will be on going changes in way we operate. The insurance team will monitor these changes and adjust and adapt the Council’s insurance package accordingly. This has been the case with the current Joint Venture exercise.
- 11.3 As part of the agreement with the new insurers a risk management fund of £10,000 has been made available to the Council. The purpose of the fund is to protect the Council from insurable risk so in the forthcoming year we will be:
- Providing fire assessment training for Health & Safety officers.
  - Arranging a cyber-risk review.
  - Conduct a risk management survey of Trafford Town Hall.



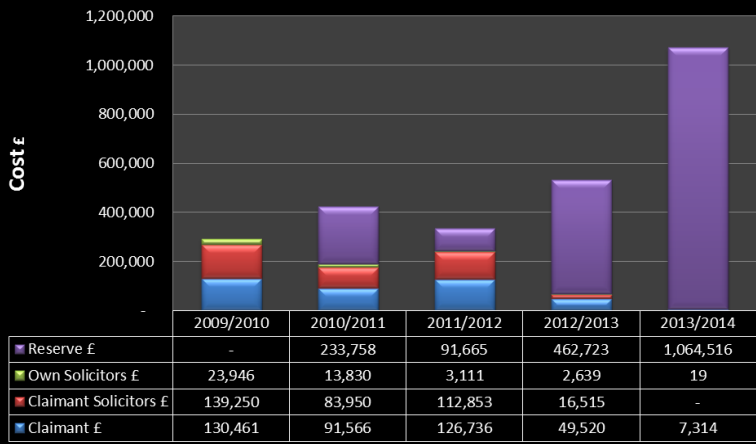
## Claims Activity Report

	2013/2014						2012/2013					
	Highway	PL	EL	Liability Total	Motor	Total	Highway	PL	EL	Liability Total	Motor	Total
<b>Claim Numbers</b>												
Live Claims b/f	326	75	29	430	53	483	253	87	34	374	110	484
New Claims Received	233	74	14	321	24	345	342	67	18	427	32	459
Settled Claims	330	76	9	415	9	424	269	79	23	371	89	460
Claims c/f	229	73	34	336	68	404	326	75	29	430	53	483
Net Change in Claim Numbers	(97)	(2)	5	(94)	15	(79)	73	(12)	(5)	56	(57)	(1)
<b>Cost of Settled Claims</b>	£000	£000	£000	£000			£000	£000	£000	£000		
Claimant Costs £	99	89	17	205			370	90	297	757		
Claimant Solicitor Costs £	97	65	30	192			171	174	98	443		
Own Solicitor Costs £	9	26		35			48	9	66	123		
Total £	205	180	47	432			589	273	461	1,323		
No of Claims Settled at Nil	262	56	4	322			200	43	7	250		
Repudiation Rate of Settled Claims	79%	74%	44%	78%			74%	54%	30%	67%		
Average Cost of Settled Claims	3,014.71	9,000.00	9,400.00	4,645.16			8,536.23	7,583.33	28,812.50	10,933.88		

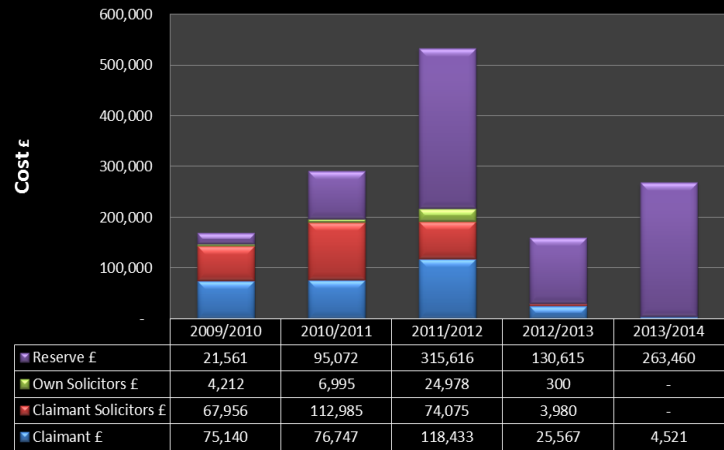
- This represents the on-going claims activity carried out within the year, irrespective of when the claim occurred.
- The costs and key statistics relate only to claims settled within the relevant financial year.
- Does not include for a small number of property and other claims.

### Claims Activity Report by Policy Year

#### Highway Claims



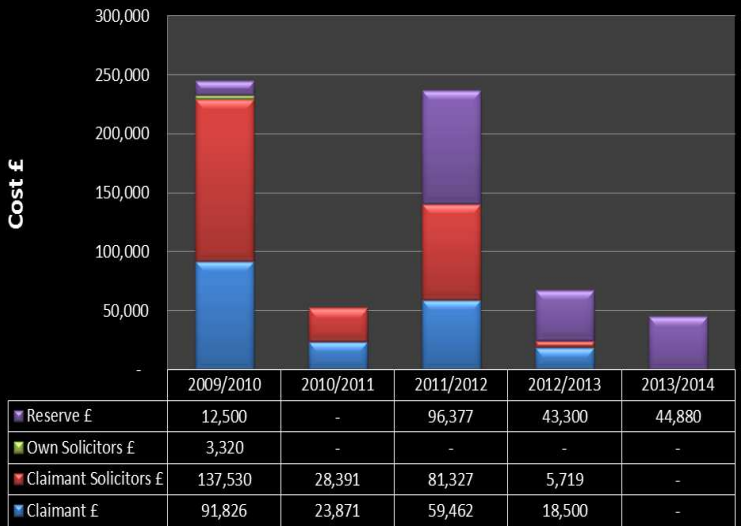
#### Public Liability Claims



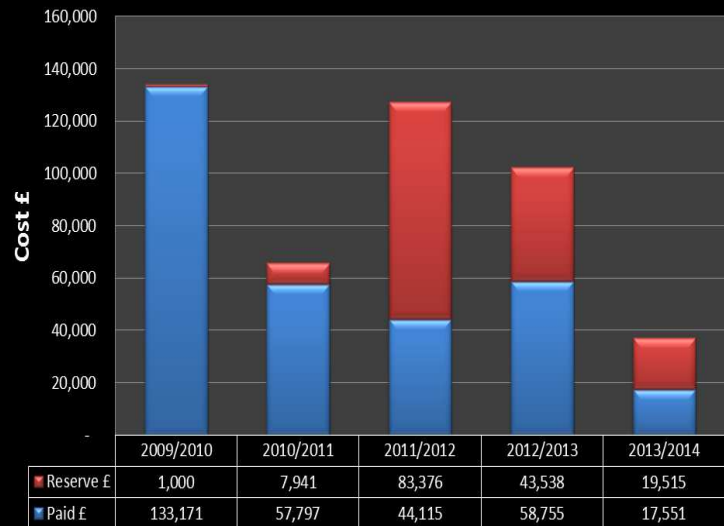
Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Repudiation Rate
2009/2010	220	0	220	176	44	80%
2010/2011	211	10	201	160	41	80%
2011/2012	241	8	233	172	61	74%
2012/2013	344	44	300	246	54	82%
2013/2014	207	143	64	58	6	91%

Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Repudiation Rate
2009/2010	78	3	75	45	30	60%
2010/2011	65	6	59	30	29	51%
2011/2012	66	5	61	37	24	61%
2012/2013	67	11	56	43	13	77%
2013/2014	62	46	16	14	2	88%

#### Employers' Liability Claims



#### Motor Claims



Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Repudiation Rate
2009/2010	19	2	17	7	10	41%
2010/2011	10	0	10	4	6	40%
2011/2012	18	6	12	4	8	33%
2012/2013	8	5	3	3	0	100%
2013/2014	5	5	0	0	0	0%

Policy Year	No of Claims	Paid £	Reserve £	Total Incurred £
2009/2010	45	133,171	1,000	134,171
2010/2011	41	57,797	7,941	65,737
2011/2012	30	44,115	83,376	127,491
2012/2013	23	58,755	43,538	102,293
2013/2014	22	17,551	19,515	37,066

