

TRAFFORD COUNCIL

Report to: Accounts & Audit Committee
Date: 23 November 2023
Report of: Director of Finance and Systems

Insurance Performance Report 2022/23

Summary

This report provides a summary of insurance performance for 2022/23:

- Gross cost of the insurance activity was £1.141m; comprising £552k of premium costs and £589k for cost of claims. Savings in premiums and claim payments resulted in an underspend of £169k against budget. A balance of £161k was redirected to the Insurance Risk Reserve to address potential sector wide emerging claims leaving a net underspend of £8k
- The provision for outstanding liability claims was £3.316m at 31 March 2023, compared to £3.323m at 31 March 2022, a decrease of £7k.
- Claim numbers increased in 2022/23, 246 new claims across all policy years compared to 209 in 2021/22.
- Claims repudiation rates remains consistently high at 75%

Recommendations

That the report be noted.

Contact for access to background papers and further information:

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Background Papers: None

1. Introduction

1.1 This report updates the Committee on the Council's insurance activities for 2022/23, focusing on:

- **Section 2** – Cost of Insurance
- **Section 3** – Claims Performance
- **Section 4** – Market Update/Outlook

2. Cost of Insurance

- 2.1 The insurance programme covers a wide range of insurable risks; a summary of policies together with appointed insurers are detailed **Annex 1**.
- 2.2 Premium and claims costs are the main items of expenditure for the insurance budget with an annual provision made which covers the estimated cost of claims. An Insurance Risk Reserve is used to absorb and smooth out any significant pressures during years where claims may exceed the net revenue budget.
- 2.3 The insurance budget is held within Council Wide, however is only reported in detail at year end due to the evolving nature of the way claims histories develop. Table 1 shows details of the budget and actuals, the 2022/2023 net budget of £860k consisted of insurance premiums at £536k, provision for claims of £712k, provision for self-insured loss claims of £100k (largely property related) and income from recharges to schools and trading functions at £488k.
- 2.4 In 2022/23 budget variances included an adverse variance of £16k for premiums, a reduction in prior year claims provision of £155k together with self-insured claims being £68k under budget against a reduction in income from schools of £38k. This resulted in an underspend of £169k, of which £161k was used to top up the Insurance Reserve, following advice from our Actuary (see para 2.8), leaving a net underspend of £8k

Table 1 – Insurance Expenditure for 2022/2023	Budget £000	Actual £000	(Under)/ Over Spend £000
Premiums	536	552	16
Provision for Claims	712	557	(155)
Self-insured Loss Claims	100	32	(68)
Gross Cost	1,348	1,141	(207)
Income	(488)	(450)	38
Contribution to/(from) reserves	0	161	161
Net Cost	860	852	(8)

- 2.5 **Insurance Provision** - The Council's Insurance Provision is the amount the Council sets aside to meet claims costs which fall within the Council's elected policy excesses (detailed in **Annex 1**). The level of the provision was £3.3m as at 31st March 2023 and is reviewed by an external Actuary on a biennial basis. The Actuary assesses the likely growth of the cost of received claims, together with forecasting potential claims costs of those incurred but not yet reported (IBNR).
- 2.6 **Insurance Risk Reserve** - The Council also maintains an earmarked Insurance Risk Reserve in the event of a catastrophic insurance loss or in the event of many high value claims and this reserve is used to balance any fluctuation in the overall provision level and additional costs associated with historical Municipal Mutual Insurance claims (MMI).
- 2.7 The level of reserve is reviewed on an annual basis and includes sufficient to cover the excess of three large insurance claims £750k, where the Council is required to pay the first £275k/£250k. Plus figures of £500k for potential additional costs associated with MMI claims, a balance of £200k to smooth any fluctuation in provision level and cover any uninsured losses over budget and £250k for emerging claims (see following paragraph).
- 2.8 In 2021/22 a new actuary was appointed to assess our provision. Taking a different stance to the previous actuary, a suggestion was made that the Council should identify a risk reserve to cover potential costs associated with sector wide emerging claims which we may become exposed to as a result of legislative changes. Such advice was considered by officers as a prudent measure, against which ring-fencing further resources needed to be considered alongside other council-wide financial risks. A decision was made to bolster the insurance reserve over a period of time to reach a figure of 50% of the balance suggested by the Actuary, a figure of £250k. The insurance reserve was subsequently topped up by £161k from the in-year underspend to reach the target of £250k.
- 2.9 Insurance Provision and the Insurance Risk Reserve balances at the 2022/2023 year end;

Table 2 – Provision and Reserve Balances			
Provision	£000:	Insurance Risk Reserve	£000:
Balance as at 01/04/2022	(3,323)	Balance as at 01/04/2022	(1,539)
Less Claims Paid	556		
Reassessed Provision	(549)	Contribution to Reserve	(161)
Balance as at 31/03/2023	(3,316)	Balance as at 31/03/2023	(1,700)

3. Claims

3.1 Activity

Financial Year	Amount Paid in Claims Across All Policy Years (01/04/1992 to 31/03/2023) £000	Number of New Claims Received and Processed in Year
2022/2023	556	246
2021/2022	582	209
2020/2021	553	284

3.2 Claim payments of £556k were made in 2022/23, a decrease of 5% on 2021/22. One large loss represented 37% of the £556k.

3.3 **Annex 2** provides an overview of our five years claims experience by policy year (01/04/2018 – 31/03/2023) split by the following risks; Employer’s Liability, Highway Injury, Highway Property, Highway Trees and Public Liability.

3.4 **Employer’s Liability** the number of claims remains consistently low, 2 claims received to date for 2022/23, against a yearly average of under 4 claims per year.

3.5 Whilst Employer’s Liability claims numbers are low, they do have the propensity to be extremely costly. We currently have two outstanding claims with an estimated provision of more than £100,000. Specialist solicitors have been appointed to represent Trafford and negotiate settlement on the best terms possible.

3.6 **Highway Injury** - 45 claims were received in 2022/23 against an annual average of 60. However, this risk remains the largest insurable financial risk to the Council, we currently have one claim which exceeds our £275k policy excess, our appointed solicitors are dealing with this matter.

Collaborative working with our Highway colleagues and the One Trafford Partnership combined with a decrease in claims numbers has seen a positive increase in our repudiation rate from 85% to 87%.

3.7 **Highway Property** damage such as that caused to vehicles due to potholes in the carriageway signify the largest number of claims received by the Council; claims made due to potholes/damage in the carriageway. The immediate effects of Covid were a large reduction in received claims. However within 2022/23 we started to see the numbers increase again toward pre-Covid levels; 112 new claims compared to 74 in 2021/22.

Although these claims are typically low in monetary value, our approach to defending them mirrors the same strict approach taken when dealing with personal injury; ensuring our Highway inspection regimes are up to date and documented, we successfully defend 3 of 4 claims.

3.8 **Highway Trees** we received 25 new claims in 2022/23 against a yearly average of 46 over a five-year period. Whilst a reduction in the number of claims has been experienced unfortunately, we have suffered a significant increase in costs due to a Health & Safety Executive investigation into the cause of a serious incident. The HSE investigation has now concluded and they have confirmed that no further action is to be taken against the Council arising from incident. The incident and subsequent investigation is still subject to a Coroner's Inquest to be heard early next year.

As previously reported, a Tree Liability Review was undertaken in 2020 alongside our Insurers. This work has been fundamental in protecting Trafford's legal exposure and contributed towards developing a new risk managed approach to tree inspections together with investment into new tree inspection software, further protecting Trafford's interests in the event of future claims.

3.9 **Public Liability** given the wide risk profile of the Council and the exposures of various departments; claims can be received for a variety of risks. Whilst claims numbers are relatively low, they do represent significant financial burden given the increased levels of compensation awarded to claimants. In 2022/23 we received 17 new claims against a yearly average of 22.

As detailed within last year's report, we have 7 claims relating to safeguarding concerns, which is complex risk for Councils. Public Liability cover is influenced by legislation and the cases made against Trafford and the liability attached will be influenced by Supreme Court appeals in the cases of HXA v Surrey CC and YXA v Wolverhampton CC, set to be heard in Autumn 2023. Given the legal complexities of these cases, usual limitation rules do not apply, therefore, closure of these types of claims will take quite some time and have the potential to be significant. In order to ensure a positive outcome for Trafford, we are working closely with our Social Care colleagues and appointed solicitors.

3.10 Defence Rates

Category of Claim	No of Closed Cases between 01/04/2018 and 31/03/2023	No of Closed Cases Defended between 01/04/2018 and 31/03/2023	Defence Rate
Employer's Liability	10	8	80%
Highway – Injury	242	211	87%
Highway – Property	728	540	74%
Highway - Tree	201	157	78%
Public Liability	92	57	62%
Total	1,273	951	75%

4 Market update / Outlook

4.1 Property

We remain in one of the most uncertain property insurance markets in decades, global inflation and economic uncertainty are causing an increase in the cost of capital which impacts claims costs. Furthermore, Insurers are impacted by rising material and labour costs together with labour shortages; all factors which drive up property premium rates.

As a result, Insurers continue to tighten underwriting discipline and limit/reduce cover on high-risk properties; those poorly managed, are vacant or incorporate cladding for example.

During 2022/23, our work with the Estate Management Team continued, we engaged with Insurers to ensure our property risk information is accurate and up to date; surveys of high risk, cladded sites were undertaken.

As valuations form the foundation for accurate coverage and premium levels whilst also providing Insurers with an in-depth knowledge and understanding of our property risks, re-valuations were carried out on all properties with a sum insured in excess of £5m. Although valuations also drive pricing, the danger of potential underinsurance could leave Trafford exposed in the event of a claim. Work is ongoing, to ensure the accuracy and quality of the information relating to the property portfolio and the use of external support is currently investigated to support this process.

This area of work helps to positively and accurately present detailed risk information to the insurance markets within our forthcoming Tender in April 2024, thus achieving wide policy coverage and competitive premium levels.

4.3 Liability

Claims inflation factors such as increased wages, increased care costs and uplifted awards for general damages has impacted liability premium rates as underwriters seek to compensate for higher claims payments, these factors also impact property and motor markets.

Whilst this market is currently relatively stable for both employers and third-party liability, we expect to see continued rate increases in line with higher inflation. It is also anticipated that Insurers will seek to increase premiums to compensate for higher claims payments experienced in recent years.

4.4 Motor

Insurers are seeking premium rate increases and higher excesses due to rising claims costs. This is further driven by supply chain issues and the simple fact that modern vehicles are more expensive to repair, particularly electric vehicles.

Trafford's motor fleet is relatively small with 20 vehicles currently on cover.

4.5 **Cyber**

Placement of Cyber risks/Data losses remains difficult despite some positive movement in the number of insurers underwriting the risk.

Cyber insurance premiums increased by an average of 28% in the first quarter of 2022 compared with the fourth quarter of 2021, according to the Council of Insurance Agents & Brokers (CIAB).

In addition to premium price increases, in an attempt to mitigate losses, Insurers have much stricter underwriting requirements; cyber security protocols such as multi-factor authentication are now mandatory.

Despite rising premium costs and limited policy terms and conditions, work continues with IT colleagues, Brokers, and Cyber underwriters in order to present Trafford as a good risk.

In the meantime, and as over the past 5 years, Cyber risk is managed from the insurance risk reserve balance.

4.6 **Insurance Tender 2024**

Preparations are currently underway to Tender the Insurance programme in April 2024 as our current five-year agreement comes to an end.

As detailed above, we have experienced a hard market in recent years, as insurers have sought to improve profits over the last two years, however competition has started to return to the market.

However, we must counterbalance this market positivity with a view of our own risks and those which are unique to the Public Sector market. As detailed within this report, legislative changes influences claims drivers and trends. There are a number of claims stemming from safeguarding issues and currently there are some high-profile claims awaiting review within the Supreme Court, the outcome of the reviews will directly impact our claims experience and the claims awards allowed to claimants.

Property risks will be under full scrutiny too given the hard market; however, it is hoped that the collaborative work across the Council detailed above will be reflected in Insurers responses.






Trafford Council Current Insurance Programme

Policy	Property Damage / Business Interruption	Employers' Liability / Officials Indemnity	Public Liability	Motor	Personal Accident / School Journey	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, Travel cancellation	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	Various	£250	£10,000	£100,000	£250
Aggregate Stop Loss*	£750,000 £1m for BI	£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 31/03/2023

Annex 2

Class of Business	2018/2019			2019/2020			2020/2021			2021/2022			2022/2023		
	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
Employer's Liability 	2	61	10	4	17	195	5	0	30	6	3	181	2	0	7
Highway Injury 	85	163	250	68	121	77	56	72	154	44	36	145	45	0	328
Highway Property 	304	51	1	212	25	19	97	14	3	74	8	1	112	2	62
Highway Tree 	47	59	30	56	49	0	51	33	30	53	10	14	25	26	142
Public Liability 	34	172	16	28	497	17	12	11	0	21	7	47	17	20	157
Total	472	506	307	368	709	308	221	130	217	198	64	388	201	48	696