

TRAFFORD COUNCIL

Report to: Accounts & Audit Committee

Date: 30 June 2015

Report for: Information

Report of: Director of Finance

Report Title

Insurance Performance Report 2014/15

Summary

This report provides a summary of insurance performance for 2014/15.

The gross cost of the insurance activity (excluding schools) for 2014/15 was £0.752m (£1.437m in 2013/14); comprising £0.397m of premium costs and £0.355m provision for claims. The main reason for the reduction was the reassessment that took place of the provision for outstanding liability claims and the success in repudiating a number of large claims during the year.

The provision for outstanding liability claims was £3.624m as at 31 March 2015, compared to £3.759m at 31 March 2014.

Overall liability claim numbers saw a slight decrease in 2014/15 with 305 new claims compared to 321 in 2013/14; the number of liability claims paid saw an increase with 102 claims paid in 2014/15 compared to 93 in 2013/14. There has been a reduction in the overall repudiation rates on settled claims in year from 78% in 2013/14 to 62% in 2014/15, albeit 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

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Background Papers: None

1 Introduction

1.1 This report provides an update to the Committee on the Council's non-schools insurance activities for 2014/15 and the purpose is to update Members on:

- Performance in respect of the major classes of insurance;
- The current budget position;
- Insurance profile after the Joint Venture.

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

2 Performance Update

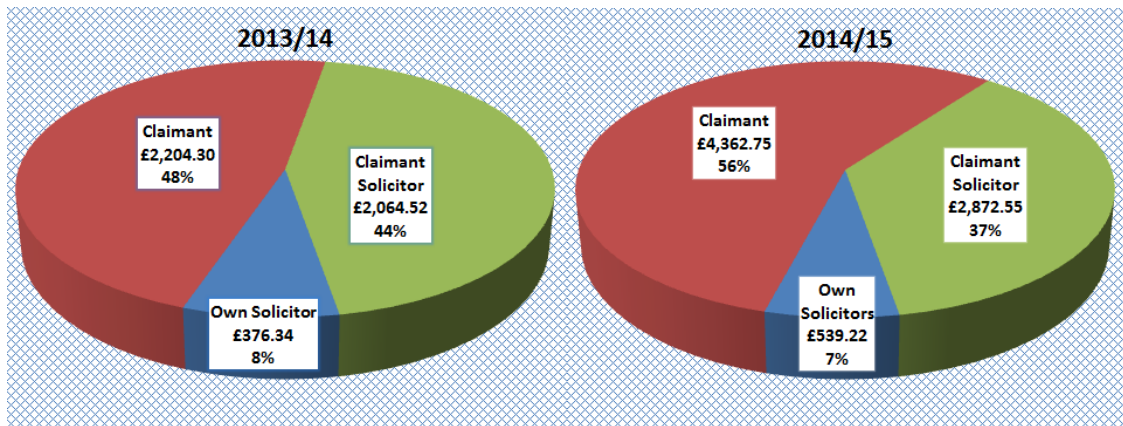
2.1 In 2014/15 the Council received 305 new liability claims compared to 321 in 2013/14, a decrease of 5%. The majority of these, 77%, were highway related claims. **Annex 1** provides information on the level of activity in 2014/15 compared to the previous year across the major insurance areas. It also provides information on the cost of claims settled in the year regardless of policy year.

2.2 Live claim numbers have seen an increase of 12% as at the end of 2014/15 and a provision is included in the Council's accounts to cover the anticipated cost of all outstanding claims (See Section 7).

	2014/2015	2013/2014
Live Claims at the Beginning of Year	336	430
New Claims Received in Year	305	321
Settled Claims in Year	265	415
Live Claims at the End of Year	376	336

2.3 The average claimant and third party legal costs have seen an increase in 2014/15. The reason for this:

- 2013/14 saw a large number of settled car damage claims which do not incur legal costs, thereby bringing the average down;
- 2014/15 saw settlement of three large claims, for details of these claims see section **3.7**, **4.5** and **5.3**.



2.4 **Repudiation rates** for claims settled have seen a decrease from 78% in 2013/14 to 62% in 2014/15. The main factors for this are:

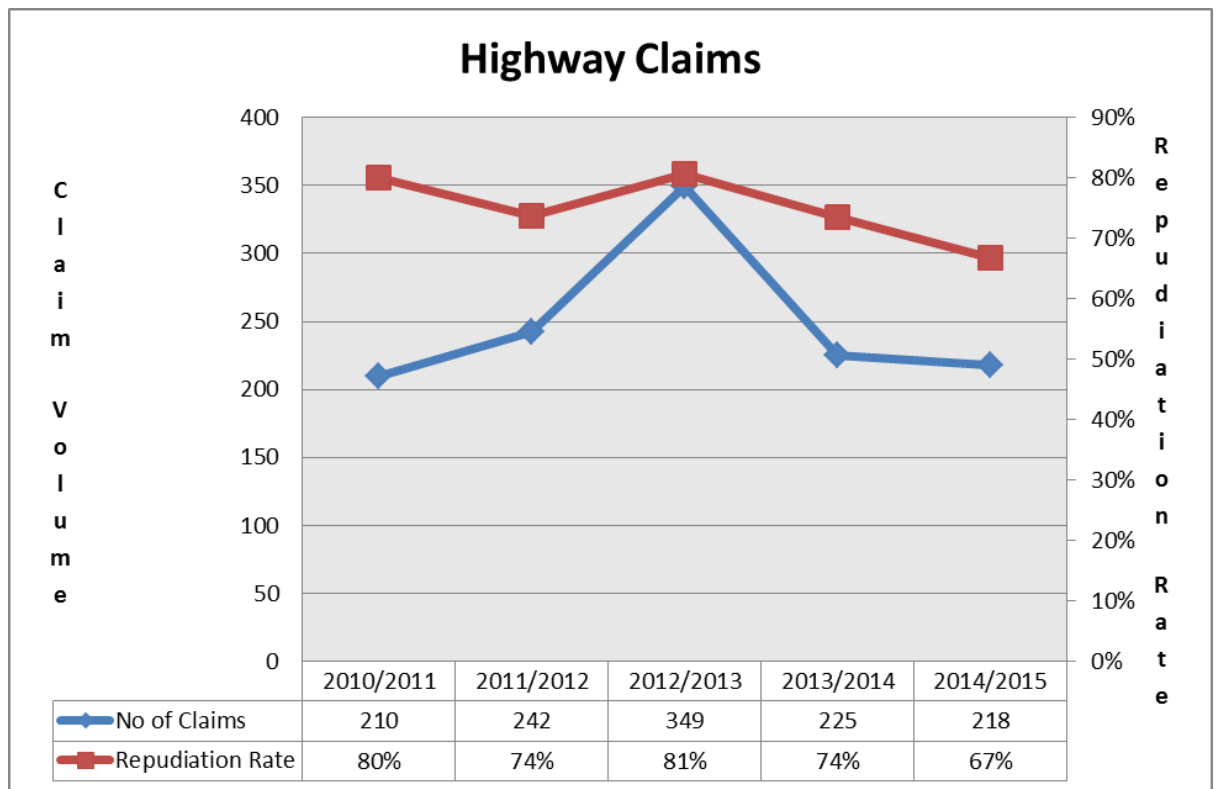
- The new insurers, ZM, adopt a different approach to closing repudiated claims than that of our previous insurer. ZM keep the claim open for 6 months following a repudiation to allow sufficient time for the claimant or their Solicitors to challenge this decision. This has an impact on the current repudiation rate, which will improve once closure is achieved.
- During the year, more claims have been settled on the basis of missed inspection or failure to repair a defect, see para 3.11 below. The contributory factors were operational. There were temporary staffing issues in the Highway Inspection team and these issues were addressed during the course of the year and have now been resolved.

The overall trend on repudiation remains good when viewed across policy years, although the reduction in respect of claims settled in 2014/15 is a concern and will be monitored with Amey and the Council's insurers.

2.5 **High value claims** are claims which carry a reserve of £50,000 and above. As at 31 March 2015 the Council had 9 outstanding high value claims with an estimated total value of £854,259 this is reflected within the current insurance provision. This compares to a similar number of outstanding claims as at 31 March 2014 with an estimated total value of £918,459. In the last 12 months four of those claims have been settled at a cost of £149,119.73, two claims with a total reserve of £479,966 have been successfully defended, see section 3.5 and 4.4 for further details. High value claims which have been received in year are summarised in the commentaries below, see section 3.7, 4.5 and 5.3. The claims range across a number of policy years and are managed by specialist claim handlers / solicitors and monitored by the insurance team.

2.6 Detailed within **Annex 2** is the 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 Public Liability – Highway Claims



- 3.1 Highway claims have been relatively consistent for the last five years apart from a spike in 2012/13 caused by a bad winter. Repudiation rates average at 77% over the five years, 2014/15 is still an immature year and we wait for more claims to be settled for this year.
- 3.2 Highway claims continue to represent the largest risk to the Council both in terms of cost and volume. Over the five year period to 2014/15 the average annual cost of claims was £547,706. This figure is inflated due to 2013/14 and 2014/15 being immature years due to the number of outstanding claims which all carry a reserve.
- 3.3 We are continuing to work closely with our insurers to ensure the majority of these claims will be repudiated and our repudiation rates remain at a continually high level, which currently stands at 77% for all claims settled in the last five years.
- 3.4 There are 6 outstanding claims for 2010/11 and 2011/12 with a reserve of £123,208; these claims have been litigated and are with the Council's appointed solicitors. As a result of our robust inspection systems this has enabled our solicitors to have two of the claims discontinued; this will reduce the provision required by £75,108.
- 3.5 We successfully defended a highway tripping claim which carried a reserve of £230,019, investigations carried out by the Insurance Team proved that the incident did not occur on a stretch of highway which is under the Council's responsibility.

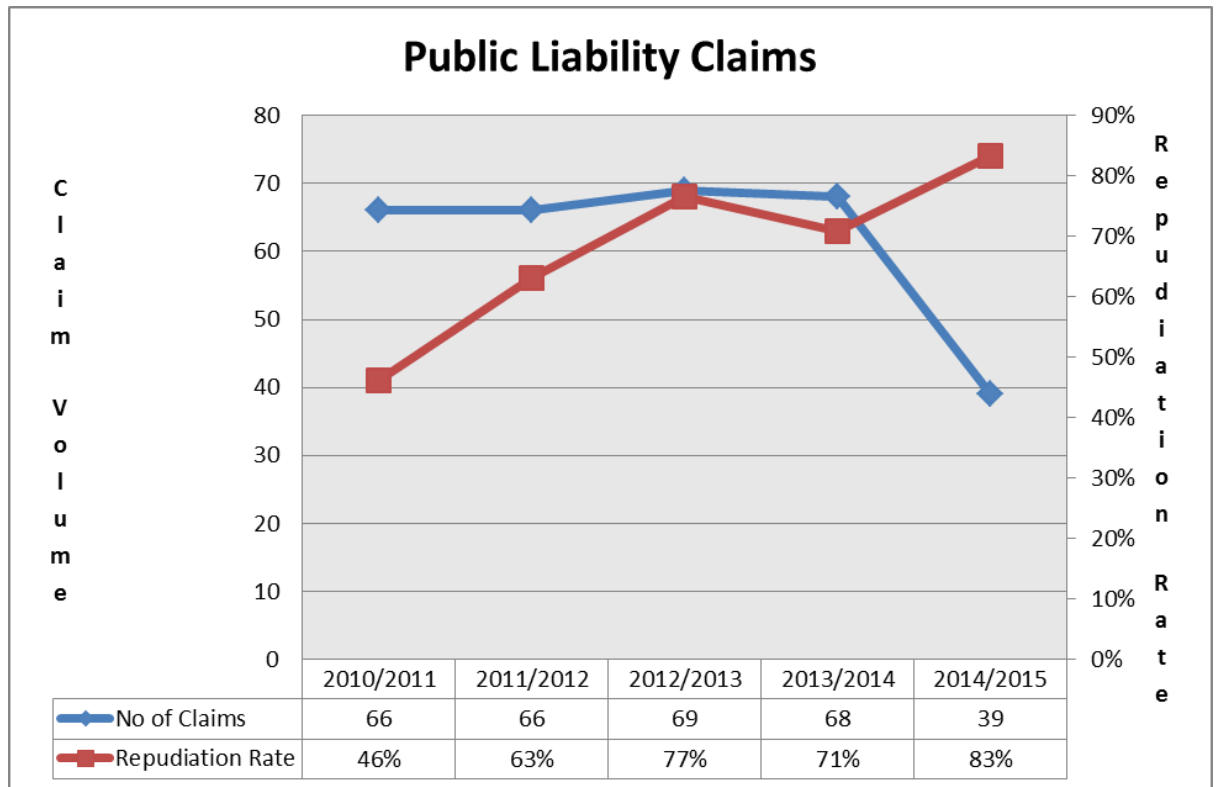
- 3.6 There is an outstanding claim in 2012/13 with a reserve of £173,400, this is due to serious injuries sustained by the claimant and our insurers are seeking expert opinion on the injuries before making any offer.
- 3.7 In 2014/15 a claim was settled for £126,000 relating to a tripping incident involving an employee at a school on the public highway in 2007.
- 3.8 The insurance team work closely with the highway officers to make certain that stringent defences are issued to protect the Council. This is evident in the repudiation rates that have been maintained over recent years.
- 3.9 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.
- 3.10 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.
- 3.11 The table below shows the reasons why claims were settled in 2014/15 compared to 2013/14.

Reason for Settlement	Number of Claims 2014/15	Number of Claims 2013/14
Defect not picked up in carriageway	8	3
Defect not picked up in footway	7	8
Failure to repair carriageway	22	36
Failure to repair footway	3	1
No inspection of carriageway	15	9
No inspection of footway	4	5
Tree damage	10	6

- 3.12 Failures to repair/inspect the carriageway remain the primary reason why claims are settled, which reflects that approximately 60% of claims received are for damaged vehicles.
- 3.13 In 2014/15 we received grant funding of £0.417m (£0.235m in 2013/14) to repair potholes and other carriageway defects; this funding has assisted in the fall in number of carriageway settlements.
- 3.14 The Highway Damage Claim form introduced by the Insurance Team in the summer of 2013 continues to be a success. 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

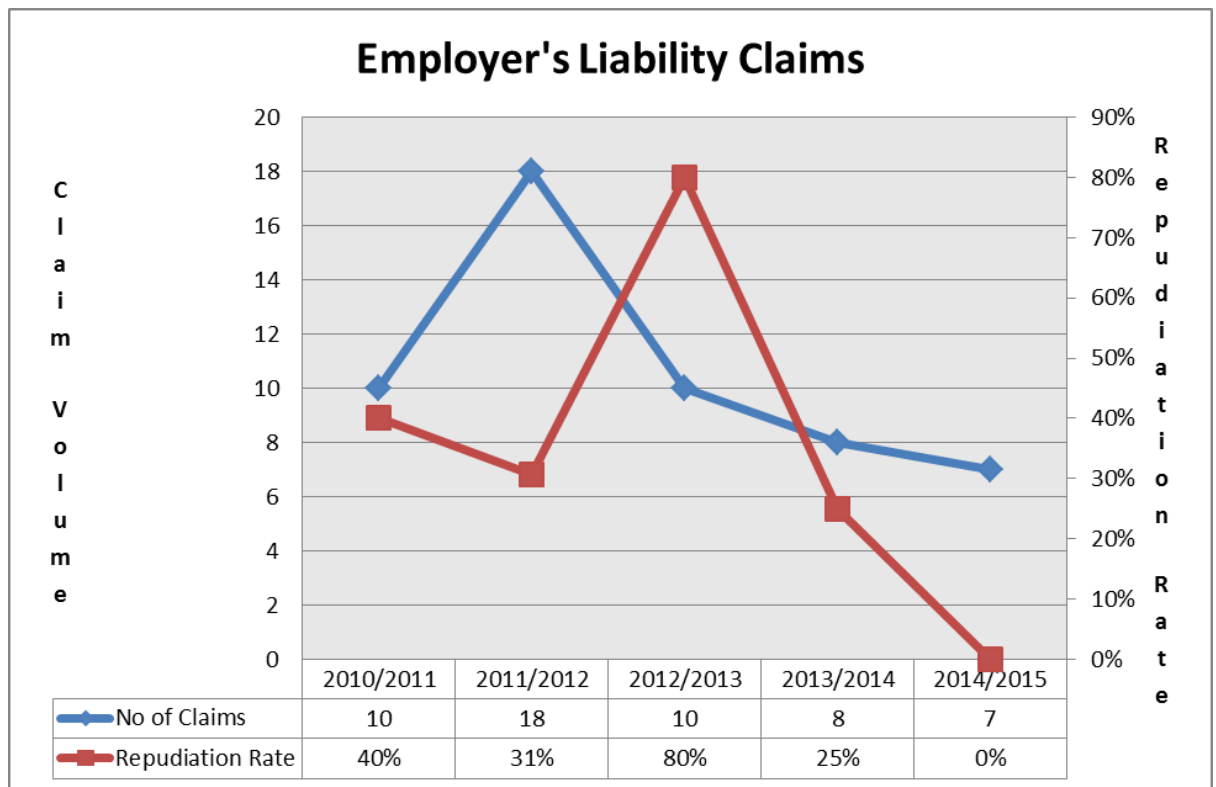
2014/15, 171 forms were sent out and 82 have been returned. This reflects a “drop-out” rate of 52% and compares to 40% since the last report in February 2014. From the figures detailed, it can be seen that the form serves as a defence against potential spurious claims.

4 Public Liability – Other Claims



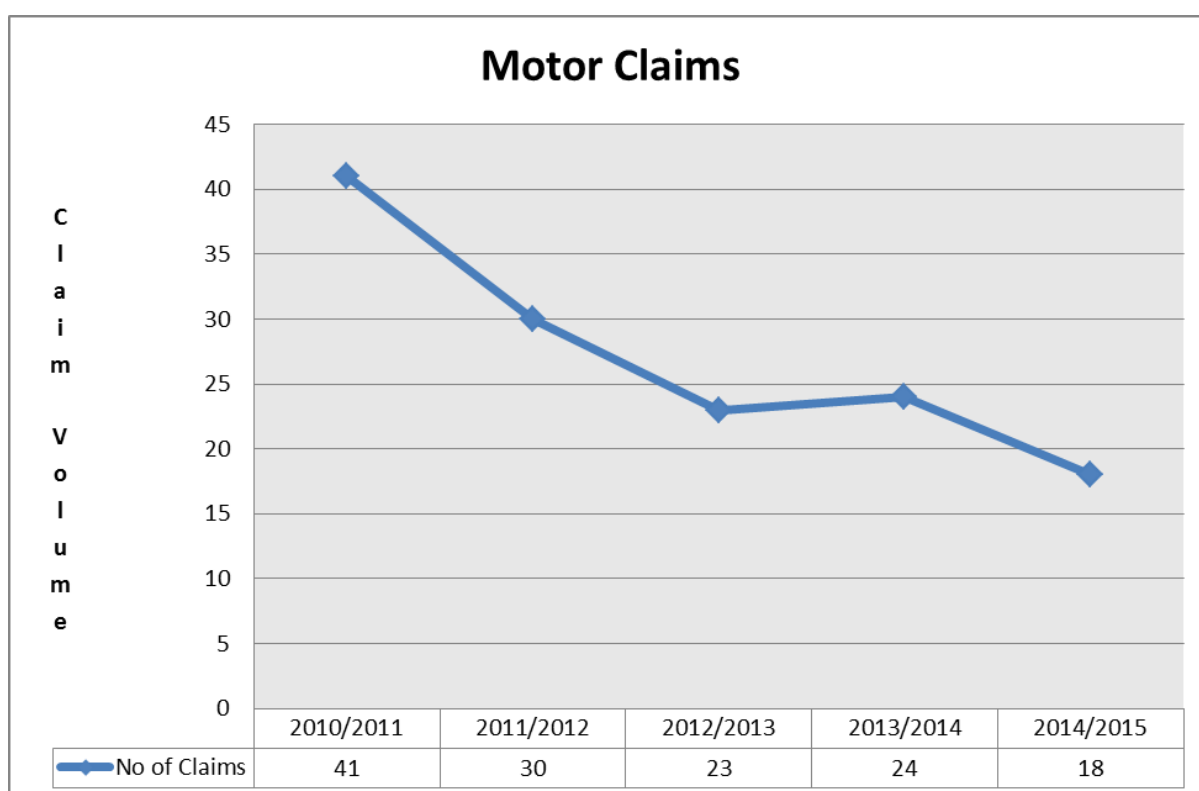
- 4.1 Public liability claims remain relatively consistent, again 2014/15 is an immature year and further claims which have been incurred but not yet reported may arrive. Repudiation rates for these claims have seen a steady climb since 2010/11.
- 4.2 Public liability claims come from across all other 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.
- 4.3 A high value claim with an initial reserve of £150,000 was received in 2014/15. It relates to allegations made against social services back in the 1990's and is being handled by appointed solicitors.
- 4.4 In 2014/15 another claim relating to social services was successfully repudiated by the co-ordinated efforts of the Insurance Team, staff in Children Families and Wellbeing and our appointed solicitors acting on behalf of the Council. This claim had an extensive reserve of £249,948 and our work resulted in protecting the Council against this large loss.
- 4.5 In 2014/15 a claim was settled for £81,000 relating to a tripping incident involving a member of the public at Stretford Public Hall in 2011.

5 Employer's Liability Claims



- 5.1 Employer's Liability claims represent the smallest claims in terms of volume but represent a significant cost to the Council. These claims are usually more complex than public liability claims and can take many years to resolve.
- 5.2 There has been an increase in historical claims, often resulting from injuries sustained, sometimes over 25 years ago. These claims are usually high in value, such as abuse, asbestos or noise induced hearing loss. A factor in the increase of these claims is the introduction of fixed costs on low value claims; these long tail claims are more complex and therefore potentially more profitable for third party solicitors.
- 5.3 In 2014/15 a claim was settled for £95,000 relating to a tripping incident involving an employee in 2007 at Trafford Town Hall.

6 Motor Vehicle (Fleet) Claims



- 6.1 The fleet is insured on a comprehensive policy. For damage to fleet vehicles there is an 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 numbers have remained relatively consistent with 18 claims in 2014/15 compared with 24 claims in 2013/14.
- 6.3 Although claims numbers have remained consistent we have seen an improvement in our claims experience which is attributable to lower value claims being received. Refer to **Annex 2** for current loss ratios. (Loss ratio is the claims cost against premium cost).

7 Insurance Budget

- 7.1 The cost of non-schools insurance in 2014/15 is £0.752m, compared to a revised budget of £1.122m, comprising premiums of £0.397m and provision for the cost of liability claims of £0.355m. The decrease in insurance costs compared to budget of £(0.370)m is explained by:
- Net decrease in provision for claims £(0.394)m. The provision amount set aside to cover liability claims is reassessed on an annual basis. The majority of the reduction (£(0.380)m) represents savings on the assessed cost of claims relating to previous policy years and a number of large valued claims that have been successfully defended. This in-year saving has been transferred to the insurance reserve.
 - Additional Professional Indemnity cover was purchased this year at a cost of £0.024m to cover the services carried out by the STaR

procurement service. This cover provides protection for claims of financial loss due to negligent advice or services. The premium cost of this cover has been recharged to the three participating Authorities.

	2013/14 Actual £000	2014/15 Projected £000	2014/15 Actual £000	2014/15 Variance £000
Premiums:	380	373	397	24
Casualty	172	175	190	15
Property	74	45	50	5
Fleet	125	135	142	7
Money, Fraud	9	18	15	(3)
Provision:	1,057	749	355	(394)
Liability Highway	790	554	528	(26)
Liability Other	267	195	207	12
Year End Reassessment			(380)	(380)
Gross Expenditure:	1,437	1,122	752	(370)
Less Income (Non Schools DSG and DSO)	(239)	(239)	(239)	0
Contribution (from)/to reserve	(381)	(108)	262	370
Rebates	(32)			
Net Expenditure	785	775	775	0

7.2 The Council maintains both an insurance provision to cover the cost of outstanding liability claims and a fire reserve. The balances on each are reassessed each year to ensure the balances are at a reasonable level.

Provision £000:		Fire Reserve £000:	
Balance as at 01/04/2014	(3,759)	Balance as at 01/04/2014	(3,408)
Additional Contribution from Revenue(*)	(992)	Transfer to the Employment Rationalisation Reserve	530
Less Claims Paid	747	Altrincham Market Fire	75
Reassessed Provision	380	Contribution from Insurance Budget	(262)
Balance as at 31/03/2015	(3,624)	Balance as at 31/03/2015	(3,065)

(*) Includes provision for school claims

7.3 Provision – The extensive data we hold on historical claims has allowed us to assess the provision internally this year, rather than by an independent actuary. This has produced a saving £10,000. We have also reviewed our process in line with our peers via the North West Insurance Officers Group and have decided that the provision will continue to be assessed bi-annually going forward.

- 7.4 Reserve - A transfer of £0.530m was made to the Employment Rationalisation Reserve as part of the 2015/16 budget process; £0.076m was paid for costs relating to the Altrincham Market fire and £0.262m came from the insurance budget. A balance of £3.065m is required to pay future property claims and serve as a buffer should the volatile insurance market move against us.
- 7.5 The Altrincham Market fire was met from the fire reserve which is there to meet the costs of such incidents.

8 Ministry of Justice Reforms

- 8.1 The Ministry of Justice reforms introduced to control third party legal costs for fast track claims (claims under the value of £25,000) came into effect on 1st August 2013. Although it is still early days, we are beginning to see the potential savings they will have for the Council.
- 8.2 To date we have paid 9 claims under these fixed costs rules. The average third party legal costs for these claims were £2,302. This compares with an average third party legal cost of £7,917 for fast track claims which occurred and were settled in a three year period prior to the reforms.
- 8.3 Whilst the reforms are still in their infancy the above comparison provides an indication of costs we are likely to see going forward.

9 Joint Venture

- 9.1 The contract with Amey LG represents a change to the current Insurance programme. Amey have been appointed to carry out the Highways inspections, repair and maintenance functions but the Council remain responsible for agreeing the Highways Maintenance Policy.
- 9.2 Whilst Amey will assume responsibility for these functions, responsibility for handling and funding insurance claims will remain within the Council and therefore the process and procedures for defending claims will remain as present in order to safeguard the insurance provision. Amey are contractually required to provide information on inspections and repairs in the same way as currently provided by the Highways Team.
- 9.3 The Insurance Team's role, working with the Councils Contract Management Team, is an important element in ensuring the smooth operating of this contract. The Council have appointed Amey to carry out our Highways operations, but in Law, the Council cannot delegate our Duty of Care in respect of any resultant Highways claims. Therefore, the Insurance Team will continue to represent the first line of Defence for any claim made against the Council.
- 9.4 The management of highways claims is vital, since this area has the largest proportion of claims and cost to the provision. The Insurance Team will work closely with Amey to establish defensibility for any resulting claims and ensure that current repudiation rates and claims experience is maintained and where possible improved, mitigating the risk of an increase in cost to our insurance programme.

- 9.5 The contract will be managed by a series of Key Performance Indicators and we will continue to strengthen our working relationship with the appointed Highway Officers to ensure that we gain access to the appropriate systems and documentation required to handle and ultimately defend claims.
- 9.6 The contract contains a penalty mechanism, if the agreed KPI's are not met by Amey. The annual fee will be adjusted if the claims experience deteriorates.
- 9.7 Staff members represent another significant change brought about by the Joint Venture, with an anticipated 250 staff transferring to Amey under TUPE conditions. From the Insurance programme perspective, this means that our payroll, used as a rating tool on our Employers Liability policy will also reduce. This represents a change in risk from an insurance perspective, however, it does not automatically mean that we should expect a return premium from our insurers as Employers Liability cover is rated on a number of factors, with claims experience being a fundamental one.
- 9.8 The Joint Venture will also have an effect on the Motor Insurance policy. Our fleet is currently made up of approximately 124 vehicles. It is expected that post transfer, this number will be reduced significantly to approximately 26 vehicles. We will continue to cover vehicles that fall outside the scope of the services that are being outsourced eg. Mayoral vehicles, school mini-buses, Library services.

10 Market Overview

- 10.1 Growth in the number and cost of personal injury claims within the market is putting pressure on liability and motor rates. Insurers are also experiencing new and emerging risks such as child sexual exploitation and Deprivation of Liberty Safeguards (DOLS) and are assessing whether they need to factor this into their pricing.
- 10.2 Insurers have sought increased rates on casualty renewals as a consequence, even within existing long-term agreements. Despite the difficult conditions experienced within the market, Trafford managed to secure renewal with our existing Insurers with no increase in rates and therefore no increases in premium cost.
- 10.3 We continue to liaise closely with internal departments, Insurers and our appointed claims handlers to ensure that we continue to manage our risk and protect our claims experience going forward. Insurers will always favour a well-managed risk.

11 Initiatives

- 11.1 The Insurance Team continue to be focused on the insurance budget and costs. We have negotiated a number of cost savings during 2014/15 which total £258,808 and include:

- £247,508 saving by direct investigation and challenging third party claims.
- £10,000 saving by changing the frequency of the actuarial report;
- £1,300 by reviewing cover and seeking alternative quotations for the marine cover;

11.2 We have continued our support to schools which unfortunately remain vulnerable to various risks affecting students, staff and property. In particular IT thefts of iPads and laptops which can result in high value losses and interrupt the school curriculum. We have produced an internal handbook which provides detailed information on policy cover and advice on mitigating their potential risks.

11.3 We recognised a training need within schools in respect of fire and security. As a result, we co-ordinated a two day training course for Head Teachers and Site Managers with our Health and Safety Team and Insurers.

11.4 On New Year's Eve a large fire at Altrincham Market caused extensive damage to the Market Hall which is a listed building. The combined efforts of the Insurance Team, Asset Management and Loss Adjustors appointed by the Insurance Team resulted in the market being repaired and re-opened just five weeks after the fire.

11.5 As part of our Risk Management Initiative, we instructed our Insurers to carry out a sample review of our buildings sums insured. This is recommended good practice to ensure that our cover and premium level is correct. We are awaiting the findings of the final report.

11.6 The Town Hall represents Trafford's largest property risk, therefore, following the extensive refurbishment, we invited Insurers to carry out a risk survey. This is a comprehensive report designed to give Insurers an insight into the construction, use, security and running of the building. As a result of the report, the surveyor gave feedback on only a few minor risk issues such as storage. The required changes have been made and as a result we were able to negotiate favourable terms and continue cover.

12 Future Issues and Plan

12.1 A number of initiatives planned for the current financial year are set out below.

12.2 We will carry out a Programme Structure Review, which consists of:

- Self-retention levels;
- Limits of Indemnity;
- Sums Insured.

This will be achieved by benchmarking against our Peers and seeking the advice of our Insurance Broker.

- 12.3 Property Portfolio - we will be carrying out an internal review of our current property portfolio against the asset register to ensure that the insured values are correct.
- 12.4 Risk management fund - as part of the insurance package, we have a fund of £10,000 per annum available to improve our risk. This year the fund will be used to reduce our total cost of risk. We want to attack our current claims costs and numbers of claims by asking Insurers to carry out a claims audit. We need to carry out this review to ensure that the results become visible in our claims experience before our next tender exercise.
- 12.5 Redraft and update an insurance handbook for all Trafford managers, the purpose being to assist managers in the same way the handbook to schools has assisted head teachers.

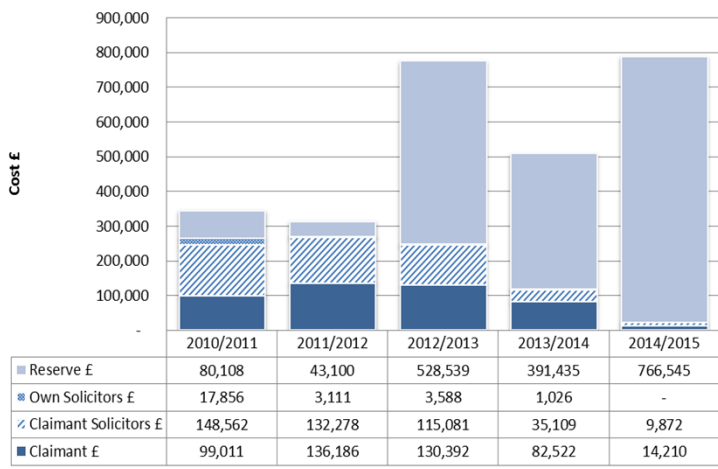
Claims Activity Report

	2014/2015						2013/2014					
	Highway	PL	EL	Liability Total	Motor	Total	Highway	PL	EL	Liability Total	Motor	Total
<u>Claim Numbers</u>												
Live Claims b/f	229	73	34	336	68	404	326	75	29	430	53	483
New Claims Received	234	53	18	305	27	332	233	74	14	321	24	345
Settled Claims	193	62	10	265	12	277	330	76	9	415	9	424
Claims c/f	270	64	42	376	83	459	229	73	34	336	68	404
Net Change in Claim Numbers	41	(9)	8	40	15	55	(97)	(2)	5	(94)	15	(79)
<u>Cost of Settled Claims</u>	£000	£000	£000	£000			£0	£0	£0	£0		
Claimant Costs £	216	129	100	445			99	89	17	205		
Claimant Solicitor Costs £	119	123	51	293			97	65	30	192		
Own Solicitor Costs £	6	45	4	55			9	26		35		
Total £	341	297	155	793			205	180	47	432		
No of Claims Settled at Nil	124	36	3	163			262	56	4	322		
Repudiation Rate of Settled Claims	64%	58%	30%	62%			79%	74%	44%	78%		
Average Cost of Settled Claims	4,942.03	11,423.08	22,142.86	7,774.51			3,014.71	9,000.00	9,400.00	4,645.16		

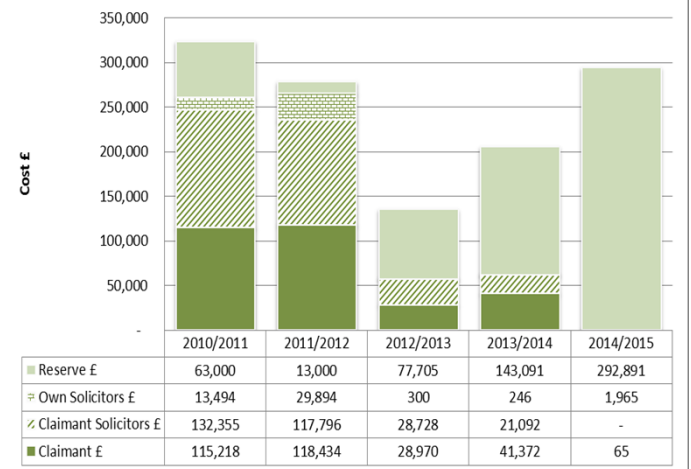
- This table represents the on-going claims activity carried out within the year, irrespective of when the claim occurred.
- The costs and key statistics relate only to claims settled within the relevant financial year.
- Does not include for a small number of property and other claims.

Claims Activity Report by Policy Year

Highway Claims



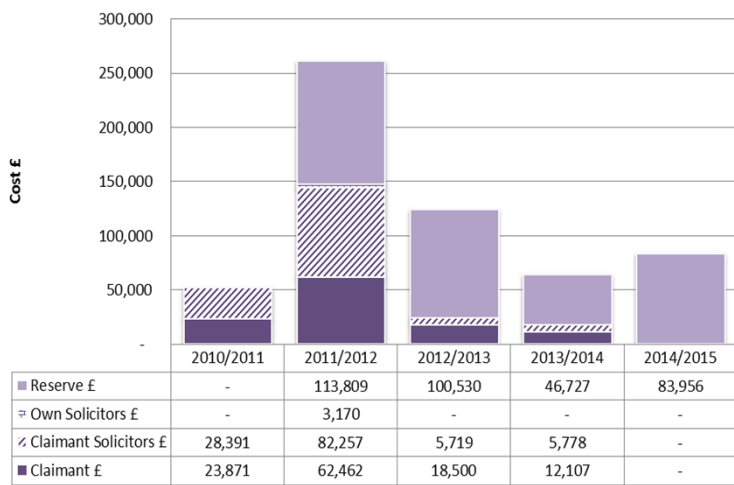
Public Liability Claims



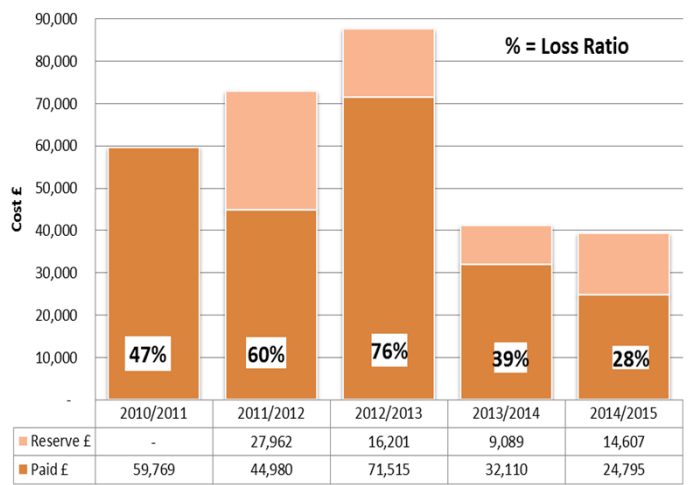
Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Repudiation Rate
2010/2011	210	4	206	165	41	80%
2011/2012	242	2	240	177	63	74%
2012/2013	349	29	320	258	62	81%
2013/2014	225	36	189	139	50	74%
2014/2015	218	185	33	22	11	67%

Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Repudiation Rate
2010/2011	66	1	65	30	35	46%
2011/2012	66	1	65	41	24	63%
2012/2013	69	5	64	49	15	77%
2013/2014	68	13	55	39	16	71%
2014/2015	39	33	6	5	1	83%

Employers' Liability Claims



Motor Claims



Policy Year	No of Claims	Open	Closed	No Settled at Nil	No of Claims Paid	Repudiation Rate
2010/2011	10	0	10	4	6	40%
2011/2012	18	5	13	4	9	31%
2012/2013	10	5	5	4	1	80%
2013/2014	8	4	4	1	3	25%
2014/2015	7	7	0	0	0	0%

Policy Year	No of Claims	Paid £	Reserve £	Total Incurred £
2010/2011	41	59,769	-	59,769
2011/2012	30	44,980	27,962	72,942
2012/2013	23	71,515	16,201	87,717
2013/2014	24	32,110	9,089	41,199
2014/2015	18	24,795	14,607	39,402

