



CORPORATE GOVERNANCE COMMITTEE
16 SEPTEMBER 2024

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

INSURANCE SERVICE – ANNUAL REPORT 2023-24

Purpose

1. The purpose of this report is to present to the Corporate Governance Committee (the Committee) the annual report on work conducted by the Insurance Service (the Service) during the period September 2023 to August 2024.

Background

2. Within Leicestershire County Council's (the Council's) Financial Procedure Rules, Rule 31 states that the Chief Finance Officer (CFO) will be responsible for arranging or amending insurance cover. This will be in accordance with policies laid down by the Executive.
3. Standard Financial Instruction 18 (Insurance of Risks) stipulates arrangements for: -
 - a. advising the Executive at key stages in the process of any litigation or disputes resolution where the Council is at risk of paying significant damages or costs;
 - b. notifying the CFO immediately any fire, loss, liability or damage, or any event likely to lead to a claim;
 - c. obtaining prior approval from the CFO and the Director of Law and Governance to the terms of any indemnity which the Council is requested to give;
 - d. allowing that a chief officer may arrange to provide insurance cover against risks not normally covered by the County Council as a whole but such cover must be arranged via the CFO.

5. The Service directly employs 7 staff (5.6 fte). It not only arranges insurance cover and handles claims for the Council's own array of services, but also for ESPO, the East Midlands Freeport and maintained schools (it receives income from arranging school trip covers). The Service also receives income from administering the Leicestershire Academies Insurance Scheme (LAIS) for academy trusts, predominantly those located within the Leicestershire boundary but for some others located in Leicester City. Zurich Municipal are the current insurers for LAIS and were awarded the contract from September 2020. The contract was extended but from 1 September will be in the last year of the contract. Re-procurement from September 2025 will be planned.

Work undertaken during 2023-24

Insurance Programme Re-Procurement

6. The Council's insurance year runs from 1 October to 30 September. The current (2023-24) programme was arranged in September 2023 in conjunction with the Council's appointed Insurance Brokers (Marsh Limited). This was the final year of a 10-year contract and knowing that re-procurement was due in 2024, the option was taken to extend the contracts (at predominantly the same rates) provided by long term insurers Risk Management Partners (RMP) with liability and motor risks underwritten by QBE and property risks underwritten by American International Group (AIG).
7. The previous procurement in 2014 had attracted only one response. In readiness for the re-procurement, Marsh was confident that the County Council presented a good risk to insurers and early engagement with the market would be beneficial to attracting more interest. They encouraged an early start pre-engaging with the market and worked with colleagues across departments to compile a detailed dossier of information setting out the Council's risks and mitigations. Officers within the Service worked with the Council's procurement experts to utilise a Yorkshire Purchasing Organisation (YPO) framework via ESPO and re-designed and modernised the detailed request for tender information.
8. The tender was set by way of a Lot Structure as follows: -
 - a. Lot 1: Property, Contractors All Risks, Computers, Specified All Risks (5 bids were received)
 - b. Lot 2: Combined Liability, including Employers and Public Liability, Professional and Officials Indemnity and Fidelity Guarantee (3 bids were received)
 - c. Lot 3: Motor Fleet (5 bids were received)
9. Marsh commented that in an incredibly volatile market the tender was considered a great success with a wide response received from the insurance market and a likelihood of reduction in premiums.

10. Bids have now been evaluated and award letters issued but at the time of writing the report, the standstill period was still being observed and so details of the award cannot yet be shared. A verbal update will be given at the meeting.

Actuarial Review

11. Assessing liability claim levels is difficult. Due to the nature of claims that the Council receives, some claims will have been incurred but not reported within the financial year of the incident. Several years can elapse before a liability claim is concluded. Two earmarked funds (reserves) are held to allow for years of exceptionally high claims, both in terms of volume and value, to be covered without detriment on the annual revenue budget. In addition, provisions are held for claims received that are awaiting settlement, the level being based on an assessment of the likely liability. As of 31 March 2024, the total amount reported in the County Council's financial statements was £16.3m
12. The funds are subject to an annual internal assessment to ensure that they are maintained at suitable levels to meet ongoing financial commitments. However, an external, independent actuarial valuation was undertaken in the autumn of 2023.
13. The Council commissioned Gallaghers (Arthur J Gallaghers Insurance Brokers Ltd to undertake a comprehensive actuarial review of its in-house Liability Insurance Fund and Uninsured Loss Fund as at 1st October 2022 to ensure that they were adequately provisioned to meet present and future liabilities including the levy's imposed under the Municipal Mutual Insurance Co. Ltd. (MMI) scheme of arrangement (see below) and the uninsured liabilities arising from the period of cover with Independent Insurance Co. Ltd. (Independent).
14. Gallagher's recommended that the Council's total suggested fund size on 31 March 2023 should be significantly lower than the balance sheet total insurance provisions and reserves for Leicestershire of £17.9m as at 31 March 2022 (from what was at the time the most up to date published accounts). Their estimations were based on the following: -
 - a. Loss run data as at 28 February 2023.
 - b. An assumption that Leicestershire's risk profile in terms of range of services provided has remained relatively unchanged in recent years.
 - c. They had not shown present value equivalent figures (i.e. reserves and provisions discounted to reflect investment income), as they anticipated that any investment income received would accrue outside the fund.
15. The overall suggested fund size was split between liabilities relating to pre-1992 claims mostly relating to claims relating to the MMI period of cover) and those relating to post-1992 claims.

16. Gallaghers were very positive about the Council's claims history especially in comparison to other councils. They didn't project any aggregate stop loss breaches for Liability in recent years (with projected ultimate claims significantly below the levels of the aggregate stop loss). An 'aggregate stop' kicks in when claims within the excess reach an agreed total. After that, claims for that period of insurance, become the responsibility of the insurer.
17. The outcome from the actuarial review was to release a smaller reserve £0.4m in 2023-24 and from 2024-25 reduce the annual top up to funds by £0.2m.

Municipal Mutual Insurance Ltd

18. Municipal Mutual Insurance Limited (MMI), the Authority's insurer between November 1969 and October 1992, ceased writing insurance business owing to financial difficulties in September 1992. MMI became subject to a Scheme of Arrangement which was triggered in November 2012.
19. Once the scheme was triggered, the Scheme Administrator reviewed the assets and liabilities of MMI in order to determine whether a Levy on Scheme Creditors was required. Based on an actuarial review by KPMG an initial 15% levy was required to achieve a projected solvent run-off. MMI has collected the original 15% levy (set in January 2014) and the additional 10% levy in April 2016. As a result, the Council (as a member of the Scheme of Arrangement) is now self-insured to the extent of 25% of any future claim payments. If the anticipated number of new claims exceeds the actuarial projections, the levy will be reviewed and may increase above the current 25%. Such an outcome is not currently anticipated but remains a possibility in the future prior to the runoff of all claims being completed.
20. The independent broker Gallaghers provides an annual review of the Scheme Administrators report, Within the 2022/23 accounts, the Scheme Administrator indicated a profit of £nil for the company in the past year (2021/22 profit was £nil). Grant Thornton remained as external auditors.
21. Some of the key comments outlined in the Scheme Administrator's strategic review were: -
 - a. The current accumulated loss on the balance sheet was £nil as it was in 2021/22
 - b. There had been a decline in the market value of MMI's bond investments, driven by higher interest rates over the past year
 - c. There had been an increase in the Incurred But Not Reported (IBNR) provision due to a recent Scottish judgement relating to a mesothelioma and pleural plaques claim. (Incurred but not reported (IBNR) is a type of reserve account used in the insurance industry as the provision for claims and/or events that have transpired but have not yet been reported to an insurance company).

- d. There had been a reduction in the number of outstanding claims, but a higher volume of claims reported in-year.
 - e. No further increases to the levy (from 25%) were currently anticipated.
22. However, as always Gallaghers comments were caveated with, 'Due to the latent nature of some claims, MMI's independent actuaries (KPMG) projections are subject to substantial uncertainty, and it is not possible to guarantee that the total levy percentage of 25% will remain sufficient'.
23. Gallaghers commented that the impact of possible future adverse claims trends is the key risk for potential further deterioration and levy increases. Additionally new types of latent claims may emerge in the coming years for which no provisions have so far been made. They noted that MMI's actuaries assume that the run-off of claims will continue until 2060, indicating the long-term nature of this uncertainty. They provided further commentary on the wider market background on the most important claim types namely asbestos and abuse.
24. At Leicestershire County Council, MMI's position is kept under review especially in terms of the Uninsured Loss Fund.

Claims handling

25. The Insurance Service employs experienced claims negotiators who handle all liability claims brought against Leicestershire County Council up to the delegated authority limits as agreed with the insurer. Each claim follows a rigorous process set out in law and the Service works closely with departments to ensure claims are being assessed and determined correctly and fairly and Claims Managers regularly attend department management teams to provide advice on mitigating the risk of claims. Work is underway to provide all County Council members with guidance to how highway claims are processed and the legal framework that applies. This may help members to answer queries from constituents.
26. Claims handling delegated authority extends to full 'cradle to grave' claims handling of public and employers' liability claims. This includes investigation, determining legal liability and repudiation or settlement of the claim as appropriate. The Council's claims team, its Legal Services team, external solicitors and other approved experts, work in partnership to defend litigated claims.
27. To maintain the excellent repudiation rates on highways claims (predominantly pothole damage claims), the Council needs to maintain its scheduled inspection regime and repair defects within the specified timescales to ensure it has a defence to claims. The highways department is drafting a new risk-based approach repairs policy. Any significant increase in repair times, could impact the Insurance Service claims performance.

28. **Appendix 1** is extracted from the recent insurance programme tender exercise and provides a snapshot on one day of information on Council liability claims over the last 10 years from 2013 to 2023. In addition, key points to note about claims in general are: -
- A. Over the period 2013-2022, the average percentage of claims closed with no payment is 88%.
 - B. Typically, over the year new claims (especially public liability – highways) peak in the winter (Q4) and tail off over summer (Q2 and Q3)
 - C. Total claims open is fairly even across the year
 - D. Only a small number of claims are closed with a payment to a claimant
 - E. Repudiation percentage is high (and substantially higher than neighbouring authorities). This reflects the Service's rigour in assessing and defending claims

Mitigating risks

29. Whilst its core business is arranging appropriate cover and defending claims, the Service has a key role to play in advising departments on mitigating risks in their service provision. Some examples of advice and interaction assisting risk mitigation are shown in **Appendix 2**.

Resource Implications

30. The work of the Insurance Service helps to protect the Council's assets (and the public purse) by determining an appropriate mix of risk financing methods, defending claims against the Council, and assisting departments with their service risk mitigations.

Equality Implications

31. There are **no specific** equality implications contained within the annual summary of work undertaken.

Human Rights implications

32. There are no human rights implications arising from this report.

Recommendations

33. That the Committee **notes** the Insurance Service annual report for 2023-24.

Background Papers

The Constitution of Leicestershire County Council

Circulation under the Local Issues Alert Procedure

None

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List of Appendices

Appendix 1 LCC Claims profile 2013-23

Appendix 2 Examples of advice and interaction assisting risk mitigation
(2023-24)

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