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<b>Report To:</b>	<b>Policy &amp; Resources Committee</b>	<b>Date:</b>	<b>19 November 2019</b>
<b>Report By:</b>	<b>Chief Financial Officer</b>	<b>Report No:</b>	<b>FIN/105/19/AP/KJ</b>
<b>Contact Officer:</b>	<b>Alan Puckrin</b>	<b>Contact No:</b>	<b>01475 712223</b>
<b>Subject:</b>	<b>Insurance Fund Position as at 30 September 2019</b>		

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### 1.0 PURPOSE

- 1.1 The purpose of this report is to advise the Committee of the position of the Council's Insurance Fund as at 30 September 2019 and to highlight any relevant issues.

### 2.0 SUMMARY

- 2.1 The number of insurance claims received for 2018/19 was lower than for 2017/18 largely due to a reduction in the number of public liability and employer's liability claims (although these claims can arise after the year in which the incident occurred). Apart from 2017/18, the number of claims has fallen year-on-year over the last 5 years.
- 2.2 As at 30 September 2019 the Insurance Fund had a balance of £5.056 million which is £0.403 million higher than the previous year. The movement is due to contributions to the Insurance Fund exceeding charges to the Fund in year for insurance claims.
- 2.3 Estimated liabilities on claims outstanding at 30 September 2019 are £0.722 million with a provision for clawback on Municipal Mutual Insurance (MMI) claims having been made of £0.297 million leaving a balance for future claims of £4.037 million.
- 2.4 The Insurance Fund will be affected by 2 major changes advised in previous years although the impact remains unclear:
- The removal of the 3 year time bar on claims for child abuse which extended the period for such claims to include abuse suffered on or after 26 September 1964
  - The amendment to the interest rate used in the calculation of compensation payments for personal injury claims from 2.5% to -0.75% in March 2017 (which will increase the level of payments for claimants from claims requiring longer term care). The rate remains at -0.75% following a review in 2019.
- 2.5 The Insurance Fund is the subject of an independent Actuarial Review every 3 years with the 2019 review having taken place and a draft report received. The review has assessed the financial position of the Fund. Any amendments to the annual contribution to the Fund or to the Fund size will be included in the Budget process.

### 3.0 RECOMMENDATION

- 3.1 It is recommended that the Committee notes the contents of this report and the Insurance Fund position as at 30 September 2019.
- 3.2 It is recommended that the Committee notes that any adjustment to the annual contribution to the Fund following the recent Actuarial Review will be included in the February 2020 Budget Committee Report.

**Alan Puckrin**  
**Chief Financial Officer**

## **4.0 BACKGROUND**

- 4.1 The Council's Insurance Strategy involves purchasing insurance for some types/levels of risks but also self-insuring for other risks by setting aside monies in an Insurance Fund.
- 4.2 The Strategy was approved at the September 2003 meeting of the Corporate Business Committee following a review of available options by the officers of the Council and also on advice from the Council's Insurance Brokers. This approach has delivered significant savings in both external premiums and internal recharges.

## **5.0 2018/19 PERFORMANCE**

- 5.1 The overall insurance picture for 2018/19 has, so far, seen a decrease in the number of claims received compared to 2017/18. As can be seen in Appendix A, the Council has so far received 122 claims for the 12 month period which is a 23.7% decrease on claims received for insurance year 2017/18. The decrease is largely due to fewer public liability and employer's liability claims. It should, however, be noted that claims relating to a year can be made in future years.
- 5.2 Last year the report showed 1,032 claims for the previous 5 insurance years (2013/14-2017/18) whereas Appendix A shows 868 claims when the position is moved forward a year (for 2014/15-2018/19), showing a reduction of 164 claims or 15.9% on the 5 year rolling basis.
- 5.3 The Fund balance increased by £402,600 during the year to 30 September 2019 due to contributions to the Insurance Fund exceeding the charges for insurance claims in year. The estimated outstanding liabilities have reduced from £0.921 million last year to £0.722 million this year.
- 5.4 In addition, part of the Fund has been set aside as a provision for the potential future clawback of claims relating to MMI. Further background to this issue is given in paragraph 6.3. When the estimated liabilities and the provision for the MMI clawback are taken into consideration, there is a balance of £4.037 million in the Fund for future claims as at 30 September 2019.
- 5.5 The Fund is the subject of an actuarial review every 3 years with the 2019 review having taken place and a draft report received. The review has assessed the financial position of the Fund and advises on the level of the annual contribution required to be made based on current and projected claims. Any amendments to the annual contribution or Fund size will be included in the Budget process.
- 5.6 As advised above, the Committee should note that some insurance claims may appear several years after the period to which they relate and that the claims paid in a year do not relate solely to the claims arising in that year but also cover some claims arising for previous years. The current balance on the Fund ensures that the self-insurance position remains the correct approach.

5.7 Appendix B shows that payments made by the Council's External Insurers continue to be significantly less than the premium paid with estimated outstanding liabilities to be borne by the Insurers of around £16,600 relating to ongoing claims.

Factors affecting the premiums charged and the claims payments by Insurers include:

- (a) For Property Insurance the Insurers are effectively providing cover for the loss of a major asset and it is hoped by both parties that the Insurer will never be asked to pay out against this policy.
- (b) For Liability Insurance the Insurers deal with the longer-tailed claims such as Employer's Liability and Public Liability claims that take longer to be generated and finalised.

5.8 High volume, low value claims for public liability continue to be dealt with in-house, whilst the Insurers deal with all other claims.

5.9 One area of particular interest relates to claims arising from road or pathway defects. The claim statistics for the last 3 insurance years are as follows:

Insurance Year	No. of Claims	% of Total Claims For Year	Claims Rejected/ Dropped	Claims Paid		Claims Outstanding	
				No. of Claims	Actual Cost of Claims	No. of Claims	Amounts Claimed **
					£000		£000
2016/17	75	47.8%	58	16	31	1	7
2017/18	73	45.6%	48	13	13	12	211
2018/19	46	37.7%	20	8	1	18	80

\*\* These amounts are subject to review as claims progress through the insurance process but are likely to reduce.

It should be noted that, whilst some claims can be resolved relatively quickly, the legal processes for dealing with claims can result in some claims taking some time to resolve.

## 6.0 OTHER ISSUES

6.1 There are ongoing issues on 4 areas affecting the Council's insurance position:

- a. Pleural Plaques
- b. Municipal Mutual Insurance (MMI)
- c. Child Abuse Claims
- d. Personal Injury Claims – Interest Rate.

### 6.2 Pleural Plaques

The Damages (Asbestos-related Conditions) (Scotland) Act 2009 provides that asbestos-related and certain other asymptomatic asbestos-related conditions are compensable in Scotland if it can be established that the conditions were caused by negligent asbestos exposure. The Council and its insurers are currently dealing with 5 claims relating to pleural plaques.

### 6.3 MMI

MMI is a former insurer which provided insurance primarily to local authorities. As a result of financial difficulties, MMI ceased to write new insurance business in September 1992 and “went into run-off” i.e. it continues but only to pay any claims that were outstanding or any claims that have arisen/may arise.

This “run-off” involved the establishment of a “Scheme of Arrangement” under which each local authority involved essentially assumed an element of mutual ownership of the company to manage the transition. When the Scheme was established it was believed that the company had sufficient resources to meet all existing liabilities and potentially provide a final distribution to participating local authorities of any residual surplus.

MMI do not have sufficient funds to meet the cost of any new claims so, from 1 January 2014, they are only paying a percentage of the cost of claims and any claims paid prior to that date under the Scheme of Arrangement are subject to clawback (there being no underwriting or reinsurance to cover this situation). The balance of the cost of claims and the amount of the clawback is impacting on a large number of local authorities throughout the UK, including Inverclyde, who are part of the Scheme of Arrangement.

The percentage of claims being paid by MMI is now 75% (with 25% payable by the Council). The Council has included an allowance for these claims and any clawback and continues to monitor and revise the allowance using the latest information from MMI.

### 6.4 Child Abuse Claims

On 4 October 2017, the Limitation (Childhood Abuse) (Scotland) Act 2017 came into effect. The Act removed the 3 year time bar on claims for child abuse meaning that claims can be made for abuse suffered on or after 26 September 1964.

It is unclear how many claims will be forthcoming, the cost of those claims, and who will bear those costs (whether former insurers/their successors or current local authorities/organisations as successors to authorities/organisations who provided child care services from 1964 onwards).

Given the uncertainties, there could be an impact on the Insurance Fund (and also on costs to be borne by the insurers) although the extent of any impact is unknown. A small number of claims have been received, none of which have any values attached.

### 6.5 Personal Injury Claims – Interest Rate

In March 2017 the interest rate used in the calculation of compensation payments for longer term personal injury claims was reduced from 2.5% to -0.75%. The rate used previously assumed that a claimant could invest their compensation and receive interest on that sum (thereby reducing the amount of compensation that they would initially receive for their claim). The change to a negative interest rate means that compensation payments to claimants from claims requiring longer term care will increase.

Following the passing of the Damages (Investment Returns and Periodical Payments) (Scotland) Act 2019 by the Scottish Parliament, the Government Actuary reviewed the rate. It was announced in September 2019 that the rate in Scotland will remain at -0.75%.

## 7.0 THE YEAR AHEAD

- 7.1 Officers within Finance Services will continue to monitor the performance of the Insurance Strategy closely and will continue to present reports to Committee no less frequently than annually.
- 7.2 The Council's contract with its Insurance Brokers ends on 31 March 2020. The services provided assist the Council in dealing with complex insurance matters and so Officers will undertake a tendering exercise to procure continuing insurance broking services for the 3 years to 31 March 2023. The costs of these services are borne by the Council through its Insurance budget.

## 8.0 IMPLICATIONS

### 8.1 Legal

None.

### 8.2 Financial

The Fund balance as at 30 September 2019 was £5.056 million which is £0.403 million higher than the previous year.

One off Costs:

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement from	Other Comments
None					

Annually Recurring Costs/(Savings):

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement from	Other Comments
None					

### 8.3 Human Resources

None.

### 8.4 Equalities

- (a) Has an Equality Impact Assessment been carried out?

	YES (see attached appendix)
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO

(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO

**9.0 CONSULTATIONS**

9.1 None.

**10.0 LIST OF BACKGROUND PAPERS**

10.1 None.

## Appendix A

### Insurance Fund Financial Summary - Insurance Years 2017/18 - 2018/19

	Insurance Years		
	2017/2018 (1 Oct 2017 - 30 Sept 2018) £	2018/2019 (1 Oct 2018 - 30 Sept 2019) £	
<b>Fund Income in Year</b>			
Total Contributed to the Fund	622,500.00	610,000.00	
Internal Resources Interest	14,565.13	31,451.61	
	637,065.13	641,451.61	A
<b>Fund Expenditure in Year</b>			
Risk Management	5,000.00	5,000.00	
Actuarial/Property Revaluation Costs	0.00	0.00	
	5,000.00	5,000.00	
Incurred Charges to the Fund in Year	468,588.79	233,866.90	
	473,588.79	238,866.90	B
Net Surplus/(Deficit) on Fund in Year	163,476.34	402,584.71	C=A-B
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<b>Fund Balance</b>			
Balance As At Start of Year	4,489,556.70	4,653,033.04	D
Add:			
Net Surplus/(Deficit) on Fund in Year	163,476.34	402,584.71	C
Actual Fund Balance At End of Year	4,653,033.04	5,055,617.75	E=D+C
Less:			
Estimated Outstanding Charges on Fund	921,067.73	721,777.78	F
Provision for Clawback for MMI Claims	290,074.00	296,797.00	G
Balance for Future Years Claims At End of Year	3,441,891.31	4,037,042.97	H=E-F-G

#### Claims Information For Last 5 Insurance Years

(This information is for the number of claims received analysed by the year to which the claim relates)

	No. of Claims Received For Year	No. of Claims Settled/Resolved	No. of Claims Outstanding	Estimated Outstanding Charges On Insurance Fund £
2014/15	226	224	2	20,706.20
2015/16	203	197	6	77,722.98
2016/17	157	115	42	63,842.00
2017/18	160	134	26	327,469.00
2018/19	122	78	44	171,941.60
	868	748	120	661,681.78
Claims Pre-2014/15			8	60,096.00
TOTALS			128	721,777.78

Of the claims outstanding:

- a) 46 are Motor Vehicle claims, none of which are payable by the Insurance Fund.
- b) 5 are Employer's Liability claims relating to Pleural Plaques and are included net of amounts payable by Municipal Mutual Insurance (MMI).

## Insurance Premiums/Payments By Insurers

	Insurer	Policy Excess 2018/2019	Responsibility for Policy Excess	Insurance Year 2018/2019		Insurance Year 2017/2018		Insurance Year 2016/2017		Insurance Year 2015/2016		Insurance Year 2014/2015		
				Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	Payments Made By Insurer For Claims	Premium Paid To Insurer (Incl. IPT)	
<b>Property Policies</b>				£	£	£	£	£	£	£	£	£	£	
General Properties	Travelers	}	Note 1	}										
Education Properties	Travelers	}	Note 1	}										
Professional Fees (First Loss)	Travelers	}	Note 1	}										
Removal of Debris (First Loss)	Travelers	} £1m	Note 1	}	9,611.46	154,596.96	16,151.94	144,448.74	78,869.76	139,507.82	7,323.75	141,152.51	2,831.23	138,802.79
Business Interruption:-	Travelers	}		}										
- Gross Revenue	Travelers	}	Note 1	}										
- Additional Expenditure	Travelers	}	Note 1	}										
Money	Travelers	£500	Note 2	}										
All Risks	Travelers	£10,000	Note 1	}										
Industrial/Commercial Property	Travelers	£250/ £1,000 for subsidence	Note 2	}										
Work In Progress (Cont. All Risks)	Travelers	£1,000	Note 2	}										
Contractors Plant	Travelers	£500	Note 2	}										
Museum & Fine Art	Axa	£1,000	Note 3		0.00	13,700.97	0.00	11,538.50	0.00	14,234.67	1,150.00	14,866.58	0.00	14,431.92
<b>Casualty Policies (Excl Claims Handling)</b>														
Public Liability	RMP/QBE	}	Note 3	}										
Employers Liability	RMP/QBE	} £55,000	Note 3	}	14,654.00	154,596.96	48,536.96	256,657.93	0.00	229,735.33	7,554.90	200,567.59	117,249.49	185,998.36
Officials Indemnity	RMP/QBE	}	Note 3	}										
Libel & Slander	RMP/QBE	---	Note 3	}										
Public Health Act	RMP/QBE	---	---	}										
Hirers Liability	RMP/QBE	£100	Note 2	}										
Professional Negligence	RMP/QBE	Various	---	}	0.00	3,920.00	0.00	7,579.60	0.00	7,444.25	0.00	7,173.55	0.00	6,545.50
<b>Other Policies</b>														
Motor (Excl Claims Handling)	RMP/QBE	£50,000	Note 4		50,434.21	60,480.00	34,957.69	98,461.44	17,330.18	86,328.00	41,830.82	80,136.00	56,084.01	78,609.60
Fidelity Guarantee	RMP/QBE	£50,000	Note 3		0.00	14,000.00	0.00	25,028.64	0.00	24,581.70	0.00	23,687.82	0.00	23,687.82
Engineering Insurance	RMP/HSB	---	---		0.00	31,201.61	0.00	3,486.04	0.00	3,423.79	0.00	2,584.68	0.00	2,691.66
Computer	RMP/HSB	£5,000	Note 5		0.00	7,258.89	0.00	7,099.59	0.00	6,655.30	0.00	7,547.48	0.00	7,472.75
School Journey	AIG Europe	Various	Note 2		1,789.00	6,190.46	3,804.48	6,651.96	851.69	6,533.18	2,917.55	6,295.61	895.00	5,995.47
Business Travel/PA	AIG Europe	Various	Note 2		0.00	6,872.32	0.00	5,932.27	0.00	5,839.20	0.00	5,742.56	0.00	5,417.51
					<b>76,488.67</b>	<b>452,818.17</b>	<b>103,451.07</b>	<b>566,884.71</b>	<b>97,051.63</b>	<b>524,283.24</b>	<b>60,777.02</b>	<b>489,754.38</b>	<b>177,059.73</b>	<b>469,653.38</b>

Estimated Outstanding Insurers' Liabilities for Current Claims: £16,604.00

### Notes

Note 1 - Insurance Fund (except for first £1,000 which is met by Service).

Note 2 - Excess is met direct by Service.

Note 3 - Insurance Fund.

Note 4 - Insurance Fund (except for first £2,500 which is met by Service). Excess is £NIL for Third Party Claims.

Note 5 - Service pays excess of £1,000.