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| Non-Executive Report of the: Audit Committee Thursday, 24 November 2022 |  TOWER HAMLETS |
| Report of: Kevin Bartle Interim Corporate Director, Resources (S. 151 Officer) | Classification: Open (Unrestricted) |
| Annual Insurance Report 2021/22 | |

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|-------------------------------|----------------------------------|
| Originating Officer(s) | Aaron Winter and Cheryl Williams |
| Wards affected | (All Wards) |

Executive Summary

This report is presented annually to the Audit Committee and provides the Committee with an overview of the internal insurance service and performance, which is part of the Audit, Anti-Fraud and Risk department.

Recommendations:

The Audit Committee is recommended to:

1. **Note** the contents of this report.

1. REASONS FOR THE DECISIONS

- 1.1 The Accounts and Audit Regulations 2015 state that a relevant authority must ensure that it has a sound system of internal control which:
 - facilitates the effective exercise of its functions and the achievement of its aims and objectives;
 - ensures that the financial and operational management of the authority is effective; and
 - includes effective arrangements for the management of risk.
- 1.2 The Audit Committee has responsibility for oversight of the arrangements for governance, risk management and control and this report assists the Committee in discharging its responsibilities.

2. ALTERNATIVE OPTIONS

- 2.1 None.

3. DETAILS OF THE REPORT

Background

3.1 The Insurance Service provides insurance cover to its stakeholders through a combination of self-insurance and external 'catastrophe' insurance. It also provides in-house claims handling services for all claims up to the policy excess. The 2021/22 main external policies had the following excesses and aggregate limit per year. The aggregate limit is the maximum amount the insurer will reimburse for all covered losses during the policy year.

3.2

| Policy | Excess Per Incident | Aggregate Limit Per Year |
|-----------|---------------------|-----------------------------|
| Liability | £500,000 | £3.9 million |
| Property | £2 million | £3.75 million |
| Motor | £0 (Zero) | £0 – No Aggregate/Stop Loss |

3.3 Most losses will therefore fall outside the policy excess and are self-insured by the Council's insurance fund. There is also financial protection of the insurance fund through the aggregate limits, restricting the exposure to the above figures per policy year. The insurer funds all claim costs above the excess or aggregate (if breached).

3.4 Below are the limits of cover under our policies.

| Policy | Limits |
|-----------------------------|--|
| Public/Employer's Liability | £50m for any one occurrence or all occurrences attributable to one cause |
| Property | Full reinstatement (up to £100m per loss) |
| Motor | £50m for any third-party motor vehicle £25m for commercial vehicles |
| Third Party Personal Injury | Unlimited |
| Own Property | Full reinstatement |

3.5 This method of risk transfer is the most cost-effective for large organisations because it limits the sums paid to insurance companies. This is the case because insurance companies must consider the following factors when determining the premiums, they charge:

- historic claim losses and the expected level of future losses adjusting for trends;
- provision to a common pot for large and infrequent losses;
- their own accommodation, general expenses and staffing costs; and
- the need to produce profit on their business activities.

- 3.6 Typically, this means that, on average, the approximate target for an insurer is for claims levels to not exceed 60% of the premium charged, thereby allowing for the above expenses and profit margins.
- 3.7 This approach also generates additional savings and benefits to the Council such as:
- a reduction in its Insurance Premium Tax liability, which is currently charged at 12%;
 - additional income from the investment returns earned on the insurance fund reserve; and
 - increased risk ownership which reduces insured losses; the savings from which are immediately realised by the Council rather than awaiting the prospect of future insurance premium reductions.
- 3.8 Finally, reduced dependence on external insurance enables improved budget control by:
- lessening the impact of insurers' reactions to UK and Global events, which would result in increased premiums.
 - lessening the impact of the typical business cycles between 'soft' and 'hard' markets. A hard insurance market is characterised by a high demand for insurance coverage and a reduced supply. Insurers impose strict underwriting standards and issue a limited number of policies. Premiums are high and insurers are disinclined to negotiate terms. A soft insurance market is when the market is soft many insurers are competing for business and premiums are generally low. Insurers relax their underwriting standards and coverage is widely available. Underwriters are generally flexible and willing to negotiate coverage terms. Broad coverage is available with some extensions available for free.
 - having the ability to self-fund risks rather than incur external insurance premiums i.e. the Council's laptops and mobile phones.
- 3.9 As an internally managed service, there is a high-level motivation to control the Council's insurance fund compared to external claims handlers. This also has benefits in terms of the control of unnecessary legal expenditure. The insurance service has historically handled personal injury, property damage and employer's liability claims in-house. Motor claims have historically been handled by the external insurer as the cover is 3rd party and there is a Nil policy excess.
- 3.10 All claims are investigated in-house with appropriate site visits to determine the legal liability. External specialist solicitors are used to support liability decisions when necessary. In the event of legal proceedings being issued, external solicitors are appointed but

importantly, the Council remain the decision makers and drive the case management.

- 3.11 The Council is a member of the Insurance London Consortium (ILC), a consortium of nine London Boroughs launched in July 2009 to provide strategic focus for insurance procurement and collaborative risk management. The consortium is governed by an agreement pursuant to section 101 Local Government Act 1972. Croydon Council is the current lead member and leads the procurement activity.

Partnerships

- 3.12 The service continues to provide insurance cover and claims handling for Tower Hamlets Homes. A service level agreement is in place between both parties.

Tenants (and leaseholders) Contents Insurance Scheme

- 3.13 This opt-in scheme is provided for the benefit of Tower Hamlets tenants at their own discretion. Leaseholders can also take advantage of the scheme. The tenant or leaseholder makes an arrangement directly with the insurer for appropriate cover. All claims are made directly with the insurer and the premium paid weekly/monthly/annually, whichever suits the financial situation of the insured. The scheme is operated by Crystal Insurance. There is no policy claims excess and has low sum insured options for persons over 60 years of age.
- 3.14 As of 31 March 2022, the scheme had 293 policyholders out of circa 9,000 potential tenants. There are also a potential 9,000 leaseholders who can take advantage of the scheme. Although the take up is low, the scheme offers insurance cover for tenants at preferred rates to meet their personal needs.

Financial Management

Insurance Fund and Provisions

- 3.15 There are three separate lines in the Council's accounts that provide the funding for its insurance exposures. Those are as follows:
- Insurance fund reserve - held to fund deficits in the insurance trading account, incurred but not reported insurance claims and other unknown insurance exposures.
 - Insurance claims provision - the total outstanding reserve for all incurred and known insurance claims.
 - External insurance provision - provision held in respect of the Council's estimated final liability arising from the insolvent local government mutual insurer, Municipal Mutual Insurance (MMI).

- 3.16 The Council's self-insured losses are funded in year from the insurance trading account. At the end of the year, the surplus or deficit is taken from or transferred to the insurance fund reserve to balance the account.

Reserve and Provision Management

- 3.17 The adequacy of the reserve and provisions is subject to annual actuarial reviews. The last of which was undertaken by Marsh in July 2022.
- 3.18 Their best estimate is that the total historical liability to the fund, to the end of 2021/22, is £8.51 million (without any risk buffer). This includes:
- £6.07 million for claims from policy years 2007/08 to 2020/21;
 - an additional £2.44 million for known prior years and Municipal Mutual Insurance (MMI); and
 - including a buffer at the 90% confidence level increases the total to £13.08 million.
- 3.19 Their best estimated loss forecast for 2022/23, covering the three main insurance classes (employers' liability, public liability, and property) is £1.98 million.
- 3.20 MMI insured many public sector authorities before it ceased underwriting operations in September 1992. Most of MMI's public sector members elected to participate in the Scheme of Arrangement and effectively became scheme creditors. In November 2012, following several years of deteriorating financials with a significant and growing deficit, the Directors announced that they were triggering the Scheme of Arrangement. The scheme's levy is currently 25%.

Insurance Recharge

- 3.21 Every year the insurance service reviews the recharges required to sustain the insurance fund. The recharges are calculated in three parts and are always set prior to the applicable year:
- internal funding requirements – the amount of money calculated that will be spent in the following year on self-insured losses, i.e., those below external insurance policy excess;
 - external insurance premiums – the cost of the external 'catastrophe' insurance which is estimated based on the current premiums plus inflationary uplifts; and
 - share of service costs – the share of the costs to operate the service, including salaries, IT costs and any other expenses incurred.

- 3.22 The current arrangements for recharging remain under review as part of completing the Finance Improvement Plan.

Benchmarking

- 3.23 In the past the Council has undertaken benchmarking using CIPFA's benchmarking services. However, due to relevant comparators in that exercise falling below four, the Council no longer takes part because of its limited value. A new benchmarking exercise has been introduced by the ILC and will see the Council compared to eight of similar authorities within the London area, but this has yet to be completed / shared with the Council in order for insights to be shared with the Audit Committee.

Claims summary

- 3.24 During the period 1 April 2021 – 31 March 2022 a total of 260 claims were received, with a reserve value (potential cost) of £2,501,212.
- 3.25 A total of 123 claims have so far been repudiated, representing a saving of £837,157. The tables below provide the breakdown of claims and position.

| Public Liability | |
|--------------------------|------------|
| Claims received | 226 |
| Total estimated value | £1,541,245 |
| No. Repudiated | 108 |
| Rep. value | £556,297 |
| Settled | 93 |
| Value settled | £238,336 |
| Outstanding claims | 25 |
| Outstanding claims value | £433,978 |

- 3.26 The majority of Public Liability claims are Highway/Roadway and Housing (THH) related.
- 3.27 Highway incident claims are in the majority equally divided between pavement tripping injuries (41) and vehicle damage (21) caused mainly by potholes. There are an additional 6 claims of other causes, such as damage to clothing on defective highway equipment. Of the 68 Highway incident claims 5 have been settled, 56 repudiated and the remaining 7 claims ongoing.
- 3.28 Housing (THH) incident claims totalled 108. Of these, 58 claims were water leak related (burst pipe) incidents. There were also 22 claims relating to roof leaks and back-surges/blocked drains. 11 claims were for trips/slips on the estate. The other 17 claims were for other building defects, fire, falling objects and claims caused by third parties (contractors).

3.29 Of the 108 claims received 66 have been settled, 29 repudiated and the remaining 13 claims ongoing.

| Employers Liability | |
|----------------------------|----------|
| Claims received | 7 |
| Total estimated value | £588,000 |
| No. Repudiated | 4 |
| Rep. value | £151,600 |
| Settled | 1 |
| Value settled | £13,408 |
| Outstanding claims | 2 |
| Outstanding claims value | £415,400 |

| Property & Miscellaneous (in-house policies) | |
|---|----------|
| Claims received | 8 |
| Total estimated value | £105,718 |
| No. Repudiated | 3 |
| Rep. value | £40,100 |
| Settled | 4 |
| Value settled | £65,318 |
| Outstanding claims | 1 |
| Outstanding claims value | £300 |

| School Claims | |
|--------------------------|----------|
| Claims received | 19 |
| Total estimated value | £266,249 |
| No. Repudiated | 8 |
| Rep. value | £89,160 |
| Settled | 8 |
| Value settled | £89,793 |
| Outstanding claims | 3 |
| Outstanding claims value | £21,520 |

3.30 In comparison, the number of claims over the past 5 years has remained stable, as demonstrated in the table below, with the average being 246. There was a dip in claims for 2020-2021 which reflects the impact of Covid-19.

| | |
|-----------|-----|
| 2017-2018 | 262 |
| 2018-2019 | 222 |
| 2019-2020 | 281 |

| | |
|-----------|-----|
| 2020-2021 | 205 |
| 2021-2022 | 260 |

Future Plans

- 3.31 After the service restructure the Risk and Insurance service has an establishment of eight personnel, with two position vacant (Risk and Insurance Manager and Risk Officer). Recruitment has not been successful for these posts. The insurance service is divided into two groups – Underwriting, which deal with insured loss and risk, and Claims, which deal with claimants who have no insurance cover and wish to make a claim against the Council's public liability policy.
- 3.32 The current Property, Terrorism and Liability policies were entered into on 1st April 2022 following a tender exercise via the ILC. The policies are for a 5-year period and continued existing arrangements, one of which with a new insurer.
- 3.33 The following policies are currently being tendered via the ILC. The contracts are to run from 1st April 2023 for a period of 5 years.
- Engineering Inspections
 - Motor Vehicle
 - Building Insurance (RTB Leaseholders)
 - School Travel (journeys)
 - Commercial Property
 - Crime
 - Business Travel

4. EQUALITIES IMPLICATIONS

- 4.1 There are no specific statutory implications.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 Public liability insurance isn't compulsory in the UK. However, having insurance is a safety net against an unforeseen incident where large losses may occur, which exceed the policy excess in place. The only compulsory cover in the UK is Employers' Liability insurance, which is a legal requirement for most businesses that employ staff. An exception is where an individual is a sole trader with no employees.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There are no specific financial implications arising from the recommendation in this report.

7. COMMENTS OF LEGAL SERVICES

- 7.1 The Council is lawfully entitled to hold reserves to cover various aspects and volumes of financial risk that might otherwise be covered by obtaining an external insurance policy. The mode of managing risk described in this report is therefore lawful and one that is similar to that followed by many larger local authorities. This allows the Council to balance premium levels against potential expenditure against the chance of crystallisation of such risks. This in turn means the Council is offered better value premiums as the market is itself protected from exposure to certain levels of risk that the Council is willing to take on itself.
- 7.2 However, the policies allow the Council to be protected from catastrophic levels of risk. There are some areas where the law requires the Council to have external policy cover.
- 7.3 The report therefore demonstrates that the Council has an appropriate methodology of risk management relating to insurance which complies with the Council's legal duties relating to risk management. Also, the mode delivers risk management in a way which is Economic Effective and Efficient and therefore compliant with the Council's Best Value Duty.
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Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- NONE

Local Government Act, 1972 Section 100D (As amended)

List of "Background Papers" used in the preparation of this report

- NONE

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