

Non-Executive Report of the: Audit Committee Thursday, 20 th July 2023	
Report of: Caroline Holland Corporate Director, Resources (S. 151 Officer)	Classification: Open (Unrestricted)
Annual Insurance Report 2022/23	

Originating Officer(s)	David Dobbs – Head of Internal Audit, Fraud & Risk and Cheryl Williams – Insurance Manager
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 Through the identification and evaluation of risks facing the authority, the Insurance Section organises the procurement of Insurance policies and manages the annual renewals in order to protect the Council's assets, liabilities and to promote effective financial management in the pursuit of value for money.

3.2 The Insurance Section provides expert advice and guidance to all levels of staff, Members and residents on any issues related to risk, insurance and claims, working collaboratively with key stakeholders including Divisional Directors, Heads of Services, Headteachers, Governors, partner organisations, ILC, brokers and Insurers.

3.3 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 2022/23 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.

3.4

Policy	Excess Per Incident	Aggregate Limit Per Year
Liability	£500,000	£2.81 million
Property	£2 million	£4 million
Motor	£0 (Zero)	£0 – No Aggregate/Stop Loss

3.5 Most losses will fall within 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 per policy year. The insurer funds all claim costs above the excess or aggregate (if breached). The annual fund review carried out by an external insurance actuary assists the council in maintaining an appropriate fund.

3.6 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

	New Town Hall limit increased to £200m
Motor	£50m for any third-party motor vehicle £25m for commercial vehicles

- 3.7 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.
- 3.8 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.
- 3.9 This approach also generates additional savings and benefits to the Council such as:
- Reduced premiums and a reduction in its Insurance Premium Tax liability, which is currently charged at 12%;
 - The possibility of 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.
- 3.10 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 for example Assault, Office Machinery, Money and Computers.
- 3.11 The Insurance Section currently handles personal injury, property damage and employer's liability claims in-house. Motor claims are handled by the external insurer as the cover is 3rd party and there is a Nil policy excess.
 - 3.12 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.
 - 3.13 Over the past year quarterly claims reporting has been established for THH, Highways, Waste and Legal, thus developing a better understanding of each departments needs and better working relationships. Claims data has also been cleansed to improve the quality of reports.
 - 3.14 The Underwriting officers within the Insurance Section have been actively involved in the management of 2 large fire claims (Maddocks House and Bentworth Court), the handling of which has been complex and has required persuasive liaison with loss adjusters, insurers, THH and external solicitors. Both incidents have had to be handled professionally and with sensitivity. The work undertaken on Maddocks House by the Insurance Section and other key officers of LBTH/THH has been recently praised by the Mayor.
 - 3.15 The Underwriting officers successfully sought Buildings and Terrorism Insurance for the New Town Hall. This was a difficult task due to the sheer value of the building exceeding the standard limits imposed by the insurer. Cover was purchased by way of excess layer.
 - 3.16 The Insurance Section has reviewed and improved its processes, creating workflows for enhanced claims handling.
 - 3.17 Training has been pushed forward this year. Apprenticeships have commenced and training developed with external solicitors by way of seminars, regular updates and published articles on litigated cases and developments.

Partnerships

- 3.18 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 accountable body and leads the procurement activity. Tower Hamlets continues to have an active role in ensuring underwriting criteria is met for procurement and renewal purposes and has an active role in the evaluation of all tenders,
- 3.19 The Insurance Section 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

- 3.20 This opt-in scheme is provided for the benefit of Tower Hamlets tenants at their own discretion. Leaseholders (owner occupiers) can also take advantage of the scheme. The tenant or leaseholder has 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.
- 3.21 As of 31 March 2023, the scheme had 289 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

- 3.22 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).

3.23 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

3.24 The adequacy of the reserve and provisions is subject to annual actuarial reviews. The last of which was undertaken by Marsh in May 2023.

3.25 Analysis is based on data as at 27th March 2023. It covers the years 2008/09 to 2022/23.

- Their best estimate of the total historical funding requirement for these years is £6.57 million.
- Adding amounts for known prior years and Municipal Mutual Insurance (MMI) gives a total, best estimate, funding requirement of £8.75 million.
- including a buffer at the 90% confidence level increases the total to £11.5 million.

3.26 Their best estimated loss forecast for 2023/24, covering the three main insurance classes (employers' liability, public liability, and property) is £1.89 million.

3.27 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

3.28 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.

3.29 The current arrangements for recharging remain under review as part of completing the Finance Improvement Plan. Insurances that are based on headcount i.e. Liability, Travel and Crime have now been centralised.

Benchmarking

3.30 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. Benchmarking is likely to be undertaken in future by the ILC.

Claims summary

3.31 During the period 1 April 2022 – 31 March 2023 a total of 234 claims were received, with a reserve value (potential cost) of £5,679,291.

3.32 A total of 109 claims have so far been repudiated, representing a saving of £385,661. The tables below provide the breakdown of claims and position.

Public Liability	
Claims received	211
Of which are Schools claims	7
Total estimated value	£948,926
No. Repudiated	99
Rep. value	£342,281
Settled	68
Value settled	£111,245
Outstanding claims	44
Outstanding claims value	£495,399

3.33 The majority of Public Liability claims are Highway/Roadway and Housing (THH) related.

3.34 Highway incident claims are in the majority equally divided between pavement tripping injuries (26) and vehicle damage (28) caused mainly by potholes. There are an additional 13 claims of other causes, such as defective utility covers and lighting defects. Of the 67 Highway incident claims 11 have been settled, 48 repudiated and the remaining 8 claims ongoing.

- 3.35 Housing (THH) incident claims totalled 98. Of these, 34 claims were water leak related (burst pipe) incidents. There were also 16 claims relating to roof leaks and back-surges/blocked drains. 13 claims were for trips/slips on the estate. The other 35 claims were for other building defects, fire, rodents, lifts falling objects and claims caused by third parties (contractors).
- 3.36 Of the 98 claims received 52 have been settled, 23 repudiated and the remaining 23 claims ongoing.

Employers Liability	
Claims received	13
Of which are School claims	8
Total estimated value	£1,289,020
No. Repudiated	8
Rep. value	£43,380
Settled	0
Value settled	£0
Outstanding claims	5
Outstanding claims value	£1,245,640

Property & Miscellaneous (in-house policies)	
Claims received	10
Of which are School claims	5
Total estimated value	£3,137,086
No. Repudiated	2
Rep. value	£0
Settled	3
Value settled	£60,086
Outstanding claims	5
Outstanding claims value	£3,077,000

- 3.37 The property claims feature a single large claim for Bentworth Court to the value of £3M - £1M of which will be paid by insurers.
- 3.38 In comparison, the number of claims over the past 5 years has remained stable, as demonstrated in the table below, with the average being 239. There was a dip in claims for 2020-2021 which reflects the impact of Covid-19.

2018-2019	222
2019-2020	279
2020-2021	204
2021-2022	258
2022-2023	234

Future Plans

- 3.39 The Insurance Section has an establishment of 8 personnel, with 2 vacant positions (Senior Insurance Officer and Risk Officer). Recruitment has commenced for the Senior Insurance Officer and the role of Risk Management is under review. The Insurance Section is divided into two groups – Underwriting, which deals with the procurement of insurance policies and renewals, insured loss and finance, and Claims, which deal with claimants who pursue the council for negligence.
- 3.40 The current Property, Terrorism and Liability policies were entered into on 1st April 2022 following a tender exercise via the ILC. The ILC also managed the tender for Engineering Inspections, Motor, School Travel, Business Travel, Crime, Commercial Property and Buildings Insurance for RTB Leaseholders. The policies are for a 5-year period and commenced on 1st April 2023.
- 3.34 The Legal Panel is currently being tendered by via the ILC. Rather than a traditional tender the ILC is in effect looking to establish and maintain a Preferred Suppliers List of panel solicitors, (liability litigation experts) to a maximum of 5 members for 5 years. This contract only relates to claims where external legal providers are appointed by Consortium members. Appointment is dependent on the nature/complexity of claim and where it is litigated, the majority of claims will be handled in-house.
- 3.35 A standard process will be developed with stakeholders for the handling of large complex property claims (e.g. Maddocks House, Bentworth Court and Hadleigh House).
- 3.36 Recoveries on claims where liability rests with contractors or other third parties will be reviewed in order to claw back monies paid to claimants.
- 3.37 Property Valuations will include Housing and be part of the rolling valuation programme procured by Asset Management. It is a requirement that valuations are kept up to date to ensure there is no under or over insurance.
- 3.38 Communications from the Insurance Section are to be developed to ensure effectiveness.

4. EQUALITIES IMPLICATIONS

4.1 There are no specific statutory implications.

5. OTHER STATUTORY IMPLICATIONS

5.1 There are various statutory insurances the Council is required to hold by law. These include Employers Liability (Employers Liability Compulsory Insurance Act 1969), Fidelity Guarantee (Crime) Insurance (Local Government Act 1972), insurance and inspection services for boilers and lifts etc. (various Health and Safety Acts) and Motor Vehicle Insurance (Road Traffic Act of 1930). Other insurances purchased by the Council are not compulsory, however, having insurance is a safety net against an unforeseen incident where large losses may occur which exceed the policy excess in place. It is a requirement of the Civil Procedure Rules (low value pre-action protocol) that liability is admitted or denied within 30 days (Public Liability) and 40 days (Employers Liability) giving a short time frame for investigation.

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.

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

Officer contact details for documents:

David Dobbs, Head of Internal Audit, Fraud and Risk

Email: david.dobbs@towerhamlets.gov.uk