

<b>ISLE OF ANGLESEY COUNTY COUNCIL</b>		
<b>Report to:</b>	Audit and Governance Committee	
<b>Date:</b>	23 July 2019	
<b>Subject:</b>	Annual Insurance Report 2018/19	
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<b>Nature and Reason for Reporting:</b> Audit committees are a key component of corporate governance and are an important source of assurance about an organisation's arrangements for managing risk, maintaining an effective control environment and reporting on financial and other performance. Consequently, the Audit and Governance Committee's terms of reference advocate its greater role in all aspects of assurance. This report provides the Committee with information about how the Council has managed its insurance activity over the last five years and its challenges going forwards.		

## 1. INTRODUCTION

- 1.1. This report provides a summary of claims under or against the Council for the period 1 April 2014 to 31 March 2019, based on the date the incident occurred and not the date the of making or presentation of the claim, and for claims presented before 1 April 2019. It details the underwriting arrangements and recent loss histories for the principal areas of insured risk.

## 2. RECOMMENDATION

- 2.1. That the Committee considers and comments on the report.



# ANNUAL INSURANCE REPORT

JULY 2019

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*Cover Photograph: Rhosneigr during ex-hurricane Ophelia, October 2017*

## INTRODUCTION

The Council retendered its insurance contract in 2017 using the Welsh Government National Procurement Service's new Dynamic Purchasing Framework to invite tenders. Zurich Municipal won the contract, which runs from 1 October 2017 to 30 September 2022, and includes an annual renewal process.

The Council has a variety of insurance policies in place of which the main ones are **public and employers' liability, property and motor**.

The **public and employers' liability** policies indemnify the Council against costs and damages that it is liable to pay when members of the public, businesses and employees present claims for damage, injury and illness arising from the Council's negligence.

The **property** policies compensate the Council for damage to its buildings and contents following damage caused by certain perils.

**Motor** insurance combines an element of both in that it indemnifies the Council against damage or injury caused to a third party by its vehicles and compensates the Council for damage to its vehicles.

The Council uses a combination of **self-insurance** and **external insurance** to address the financial consequence of risk. In some cases the Council has arranged external insurance but self-insures a large proportion of the claims paid by opting for a large **excess**. To reduce the financial risk the Council has negotiated an aggregate stop (cap) on these policies and once this is reached the insurer meets the cost of any further claims.

Since 1 October 2017, the excess for the main policies are as follows:

<b>Public and Employers' Liability</b>	<b>£50,000</b>
<b>Motor</b>	<b>£1,000</b>
<b>Property - Schools</b>	<b>£25,000</b>
<b>Property - General Buildings and Housing</b>	<b>£10,000</b>
<b>Property - Smallholdings and Commercial</b>	<b>£250</b>

The self-funding of losses is part of the Council's overall approach to managing risk. It provides a greater incentive to deal with risk more effectively given that any reduction in claims directly benefits the Council. It also reduces the premiums payable and minimises the Council's liability for Insurance Premium Tax (currently levied at 12%<sup>1</sup>). The external premiums paid in 2018/2019 was in excess of £610,000, including £62,743 of Insurance Premium Tax.

To meet the self-insured element of any claims, the Council has established an Insurance Fund. The Council's appetite for risk and the need to maintain the stability of the Insurance Fund over the long term influences the level of self-insurance.

To meet this level of self-insurance, as at 31 March 2019, the Council's Insurance Fund consisted of £1.250m in an Earmarked Reserve and £270k in the Insurance Provision Account.

While it is important to ensure that the Insurance Fund holds sufficient resources to meet its liabilities, there is also an opportunity cost to maintain a greater balance than is needed. To ensure that the Fund is sufficient to meet the cost of its claims but is not over resourced, the Risk and Insurance Manager, in conjunction with the Head of Function (Resources) and Section 151 Officer, reviews the Fund every year.

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<sup>1</sup> Insurance premium tax increased from 6% to 9.5% in November 2015, to 10% in October 2016 and on 1 June 2017, to 12%.

## CLAIMS SUMMARY

This report provides a summary of claims under or against the Council's external and internal insurance arrangements for the period **1 April 2014 to 31 March 2019**, based on the date the incident occurred and not the date of the making or presentation of the claim, and for claims presented before 1 April 2019. The cost of the claims is the total cost to the Council and its insurer inclusive of damages and costs.

The summary of claims included in [Appendix A](#) of this report provides a breakdown per policy, per financial year for the Council as a whole of the number of claims that have:

- been paid,
- been settled without cost or payment being made, or
- where the claim has not yet been settled.

The summary also includes the amount paid in respect of those settled claims and the amount reserved against those claims not yet settled.

It should be emphasised that not all '*still open*' claims and that have a reserve against them will be paid or settled for the amount reserved against them. This is particularly true for liability claims; claims with large reserves often settle for much lower sums or are settled at no cost at all.

The number of claims might also increase over time, as in some cases claimants present claims several years after the event. For example, a child injured in primary school has a period of three years after turning 18 years old to present their claim. Hence, both the number of claims and the amount reserved and paid will change over time.

## CLAIM TRENDS

The number of claims for personal injury presented by employees remains low at three or four per year over the 5-year period. Although the Council has not received any claims for the 2018/19 period, 5 of the 16 (31%) claims presented during the previous four years are still open. This demonstrates the 'long tail' nature of several employers' liability claims.

The number of public liability claims has reduced significantly over the last five years. Claims for injury to road users and damage to vehicles on the highway make up almost half of the claims received (46.6%). However, the number of highway related claims received more or less halved over the four years from 2014/15 to 2017/18, with 2018/19 showing a small increase. There has been no significant change in the number of claims against any other service, although there has been a spate of claims alleging housing disrepair against the Housing Service in 2017/18.

Of the public liability claims paid, the most significant are damages and costs of almost £23,000 paid following a slip, trip or fall on a Council-controlled slipway. There are also three other slip, trip or fall claims that have each cost in excess of £10,000. Of the public liability claims that are still outstanding, the most significant has a reserve of approximately £81,000 and relates to a tripping accident on the highway.

The number of motor claims remains fairly static across the period, although the Council witnessed an increase in claims in 2018/19 which appears to have continued into 2019/20. A high proportion of these claims (58%) are the result of errors by our drivers. In 2017/18, the Council saw a noticeable increase in the cost of motor claims. Over £72,000 of this increase is attributable to the November 2017 floods that resulted in the insurer writing off four electric vehicles.

The weather is the main driver for property damage claims. In October 2017, ex-hurricane Ophelia hit the British Isles, bringing gusts of up to 90 mph.

It was the second storm of the 2017/18 winter season, following Storm Aileen in September. The strongest winds were around Irish Sea coasts, particularly west Wales, with gusts of 70 to 80 mph or higher in exposed coastal locations. The Island featured twice in the UK's top six wind gusts<sup>2</sup>:

Location	Region	Gust speed (mph)
Capel Curig	Gwynedd	90
Aberdaron	Gwynedd	90
RAF Valley	Anglesey	81
Mumbles Head	West Glamorgan	79
Ronaldsway	Isle of Man	78
Mona	Anglesey	77

Ophelia caused damage to the roof of Plas Arthur and repairs are estimated at £34,000.

Also in 2017/18, a fire destroyed an agricultural building at Maes Yr Hufen and there was an asbestos incident at Holyhead High School.

<sup>2</sup> Source: The Met Office - the UK's National Meteorological Service and one of the Department of Business, Energy and Industrial Strategy (BEIS) Partner Organisations.



## FUTURE CHALLENGES

As the squeeze on budgets continues, there will inevitably be an impact on the number of claims presented and the Council's ability to defend them.

All highway authorities should now have implemented the new UK code of practice for highways authorities, 'Well-managed Highway Infrastructure'. This is now a risk-based approach and, as opposed to setting prescribed limits to determine a defect and the action the Council should take, the judgement of the Highway Officers is now key. Significant work has been undertaken and training provided to ensure that the Council complies with the new code of practice but it is uncertain what impact this will have in terms of claims and in particular the Council's ability to defend claims.

Recent court decisions (Barclay Bank Plc v Various Claimant, Various Claimants v Wm Morrison Supermarkets Plc etc.) appear to have extended the grounds that courts can hold an employer vicariously liable for the acts of its employees and contractors. In these and other cases, the claim has succeeded even if the employee's actions are only tenuously linked to their work, or has taken place outside of their place of work or outside of work time. It is therefore increasingly difficult to see when a court will not hold a defendant employer vicariously liable for the actions of its employees when an innocent claimant presents a claim.

The Council owns and manages 3,819 housing properties and just over 700 garages, across the Island, with a vision to see an increase in stock to over 5,000 units by 2049. The Council has achieved Welsh Housing Quality Standard (WHQS)<sup>3</sup> since 2012; the second Council in Wales to achieve this standard<sup>4</sup>.

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<sup>3</sup> The Welsh Housing Quality Standard (WHQS) is the Welsh Government standard of housing quality. The WHQS was first introduced in 2002 and aims to ensure that all dwellings are of good quality and suitable for the needs of existing and future residents. The Welsh Government set a target for all social landlords to improve their housing stock to meet the WHQS as soon as possible, but in any event by 2020. The Housing (Wales) Act 2014 reaffirmed this requirement.

<sup>4</sup> Some properties remain that are classified as 'acceptable fails'.

In addition to the WHQS, the Welsh Government introduced legislation in relation to housing fitness in the Renting Homes (Wales) Act 2016<sup>5</sup>. It requires landlords to ensure the property is fit for human habitation at the time of occupation and for the duration of the tenancy contract. Undoubtedly, there is potential for an increase in claims against the Council, with a number of 'no win, no fee' organisations already starting to operate in the area.

We are fortunate on the Island that our claims culture does not reflect the challenges faced by larger, urban councils. However, behaviours within the claims environment continue to evolve following changes in claims regulation and claimant solicitors push at the boundaries to test the system as they attempt to maximise their costs income.

Going forward, we will review our exposure to fraud and, where possible, look to resolve meritorious claims more quickly with reduced costs. The Council must accept some risk, but in doing so, it ensures that there are processes in place to review and manage those risks with the aim of ensuring a balance between the risks we insure and the cost of the premium.

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<sup>5</sup> Similar provisions are included in The Homes (Fitness for Human Habitation) Bill 2017-19, which is currently making its way through Parliament. Although the Bill extends to England and Wales, it will only apply to tenancies in England.

# APPENDIX A

Polisi		2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	Policy		
Atebolrwydd y Cyflogwr	Nifer	Wedi Eu Talu	2	3	0	1	0	Paid	Employers' Liability
		Setlo Heb Göst	1	0	1	3	0	Settled Without Cost	
		Dal yn Agored	1	0	2	2	0	Still Open	
	Swm	Wedi Ei Dalu	£12,990	£49,874	£0	£2,665	£0	Paid	
		Wrth Gefn	£79,887	£0	£84,995	£7,884	£0	Reserved	
Atebolrwydd Cyhoeddus	Nifer	Wedi Eu Talu	17	15	23	24	11	Paid	Public Liability
		Setlo Heb Göst	103	80	58	31	25	Settled Without Cost	
		Dal yn Agored	3	5	3	7	39	Still Open	
	Swm	Wedi Ei Dalu	£79,253	£35,947	£33,551	£58,388	£5,462	Paid	
		Wrth Gefn	£14,791	£93,850	£23,277	£29,877	£174,199	Reserved	
Modur	Nifer	Wedi Eu Talu	18	11	10	16	9	Paid	Motor
		Setlo Heb Göst	6	15	22	6	11	Settled Without Cost	
		Dal yn Agored	1	0	0	1	14	Still Open	
	Swm	Wedi Ei Dalu	£16,593	£46,305	£13,179	£81,787	£10,067	Paid	
		Wrth Gefn	£11,094	£0	£0	£14,221	£10,873	Reserved	
Eiddo	Nifer	Wedi Eu Talu	11	18	17	16	6	Paid	Property
		Setlo Heb Göst	6	8	11	16	1	Settled Without Cost	
		Dal yn Agored	0	0	0	2	7	Still Open	
	Swm	Wedi Ei Dalu	£17,148	£71,799	£78,632	£38,688	£10,009	Paid	
		Wrth Gefn	£0	£0	£0	£34,182	£17,066	Reserved	
Arall	Nifer	Wedi Eu Talu	3	1	0	2	2	Paid	Other
		Setlo Heb Göst	1	0	1	1	0	Settled Without Cost	
		Dal yn Agored	0	0	0	0	0	Still Open	
	Swm	Wedi Ei Dalu	£41,273	£3,708	£0	£331	£743	Paid	
		Wrth Gefn	£0	£0	£0	£0	£0	Reserved	
Cyfanswm	Nifer	Wedi Eu Talu	51	48	50	59	28	Paid	Total
		Setlo Heb Göst	117	103	93	57	37	Settled Without Cost	
		Dal yn Agored	5	5	5	12	60	Still Open	
	Swm	Wedi Ei Dalu	£167,256	£207,633	£125,363	£181,859	£26,281	Paid	
		Wrth Gefn	£105,772	£93,850	£108,272	£86,164	£202,138	Reserved	