

DERBYSHIRE COUNTY COUNCIL

CABINET

1 October 2013

Report of the Director of Finance

**MUNICIPAL MUTUAL INSURANCE – SCHEME OF ARRANGEMENT
(COUNCIL SERVICES)**

1 Purpose of the Report

To advise Cabinet of the latest position with relation to the “run-off” of the business of the former local authority insurer Municipal Mutual Insurance. This report is supplementary to those provided in January 2013 and December 2010.

2 Information and Analysis

The former local authority insurer, Municipal Mutual Insurance Ltd (MMI), ceased writing new business, or inviting renewal of policies, on 30 September 1992. Since then they have continued to pay claims in full in the anticipation that a solvent run-off of the company would be achieved.

As an alternative to liquidation the business of the company was being wound up by means of a Scheme of Arrangement with its creditors. Details of the Scheme were reported to Policy, Finance and General Purposes Delegation Sub-Committee on 23 December 1993. At that meeting the committee resolved to vote in favour of the Scheme at the meeting of Scheme Creditors on 5 January 1994.

The Scheme became effective on 21 January 1994 and until recently has been held in reserve.

The County Council is a Scheme Creditor and, as such, is subject to the financial implications of the outcome of the run-off.

The Scheme was only to be triggered if the company’s known liabilities exceeded its assets and it could not guarantee a solvent run-off of its liabilities. If this were to happen, every Scheme Creditor would be required to repay a percentage of the claims payments they have received (in excess of a flat £50,000) from the inception of the Scheme on 30 September 1993 to

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the date the Scheme was triggered. The Council would also be liable for future claims which have been incurred but have not yet been reported.

Until recently the Directors of the company had been of the opinion that a solvent run-off would be achieved and the Scheme would not be triggered. This view was dependent upon recent court decisions concerning asbestos related claims being found in their favour. Unfortunately, this was not the case and MMI confirmed on 13 November 2012 that the Scheme would be triggered. Control of the Company has passed to the Scheme Administrator, Gareth Hughes for Ernst & Young LLP, who will, in accordance with the terms of the Scheme, undertake a financial review of the Company and, in consultation with the Scheme Creditors Committee, consider the extent to which any levy is to be imposed upon Scheme Creditors.

It is possible for more than one call to be made under the scheme and the final position will not be settled for some time as claims continue to come forward relating to asbestos related illnesses, "failure to nurture" (for example failure to diagnose dyslexia); and "abuse" allegations. Claims of this kind come forward many years after the alleged incident.

The Scheme Administrator confirmed on 13 May 2013 that an initial call under the scheme would be made in the amount of 15%. Collection of this call is unlikely before September 2013 as the scheme claims administrator need to prepare their systems appropriately.

3 Financial Considerations

3.1 Claw-back under the Scheme of Arrangement

The County Council has prepared the most conservative long term repayment of 90% of paid claims, as recommended by the independent actuary in his last report on the Insurance Fund in June 2013.

As at 31 March 2013 the County Council has received £7.56m in claims payments from MMI with a further £0.84m of known claims outstanding and still to be settled. Based on a levy of 90% and current figures the Council would be faced with having to make a maximum repayment of £6.76m.

The Council has set aside resources in the General Reserve, in a Provision and the Insurance Reserve. The recent actuarial fund review has shown adequate funds in the specific provision and insurance reserves to meet the full potential liability. The amount held in General Reserves is therefore no longer required.

3.2 Ongoing Claims

Invoking the Scheme also exposes the Council to payments arising from subsequent claims from sufferers of asbestos related illnesses; others alleging abuse whilst in the Council's care; and failure to nurture allegations. Asbestos related illnesses represent the most significant and likely source of claims.

The Council was uninsured for asbestos related losses prior to November 1979 so provision is already made in the budget for the financial consequences of claims falling in this period. There will now be a further financial liability in respect of the MMI policy years (1979 to 1992) and it is recommended that claims be monitored so that additional budgetary provision can be made if required. Outstanding claims with MMI have already deteriorated from £185,000 (September 2010) to £838,000 (March 2013). No additional funding needs to be allocated at this stage.

4 Other Considerations

In preparing this report the relevance of the following factors has been considered: legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

5 Key Decision

No

6 Call-in

Is it required that call-in be waived in respect of the decisions proposed in the report? No

7 Background Papers

Held in the Risk and Insurance Section

8 OFFICER'S RECOMMENDATION

- (a) Note that the earmarked contingent liability in the Council's General Reserves is no longer required.
- (b) Note that £5.2m has been set aside in the Insurance Reserves as a contribution to the Clawback and a further £1.84m has been transferred from Insurance Provisions into a specific MMI Provision.

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- (c) Note that future uninsured claims will be monitored and budgetary provision made to meet those claims as and when required.

PETER HANDFORD

Director of Finance

29 August 2013