

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**22 January 2013**

**Report of the Director of Finance**

**MUNICIPAL MUTUAL INSURANCE – SCHEME OF ARRANGEMENT  
(FINANCE AND MANAGEMENT)**

**1 Purpose of the Report**

To advise Cabinet of the latest position with regard to the “run-off” of the business of the former local authority insurer Municipal Mutual Insurance. This report is supplementary to that provided in 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 a meeting of Scheme Creditors on 5 January 1994.

The Scheme became effective on 21 January 1994 and until now 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 couldn’t 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 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 have been of the opinion that a solvent run off will 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 has not been the case and MMI confirmed on 13 November 2012 that the Scheme will be triggered. Control of the Company has now 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.

In the meantime an initial call under the scheme can be expected to be announced in the next few months. The level of this call is speculated to be between 13% and 21% of claims paid based upon the Company’s accounts for the period ending 30 June 2012.

### **3 Financial Considerations**

#### **Clawback under the Scheme of Arrangement**

The County Council has prepared for 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.

As at 30 September 2012 the County Council has received £7.396m in claims payments from MMI with a further £677,000 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 £7.26m.

The Council anticipated issues with a solvent run off some time ago and had £2.8m set aside in the Insurance Reserve as at November 2010. The following actuarial revaluation indicated that a total value of £7m should be set aside by the Council with a further £0.7m being funded in the Insurance Reserve and £3.5m from the General Reserve. In anticipation of the imminent scheme trigger an amount of £2m was

transferred from the General Reserve and charged against the 2011-12 accounts. The sum is now in a provision on the Balance Sheet.

### **Ongoing Claims**

Invoking the Scheme will also expose 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 £677,000 (September 2012). No additional funding needs to be allocated at this stage.

## **4 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**

Yes

## **6 Call-in**

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

## **7 Background Papers**

Held in the Risk and Insurance Section.

## **8 OFFICER'S RECOMMENDATIONS**

That Cabinet:

- (a) Note that £2.111m remains earmarked as a Contingent Liability in the Council's General Reserves.

- (b) Note that £1.839m has been set aside in the Insurance Provision is as a contribution to the Clawback and a further £2.8m is held in Insurance Reserves.
- (c) Note that future uninsured claims will be monitored and budgetary provision made to meet those claims as and when required.

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