

DERBYSHIRE COUNTY COUNCIL

CABINET

22 September 2015

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 October 2013, 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. Until 13 May 2013 they 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

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 was passed to the Scheme Administrator, Gareth Hughes for Ernst & Young LLP, who, in accordance with the terms of the Scheme, undertook a financial review of the Company and, in consultation with the Scheme Creditors Committee, considered 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%. After validating the claims data presented as much as possible given the limited records held, the Council paid the balance of its levy of £1,179,802 on 16 April 2014.

An amount of £59k was recovered from Derbyshire Police Authority under the terms of the transfer agreement in relation to this initial trigger.

The Scheme Administrator have indicated that it could take a further 15 to 20 years for MMI to have a clearer idea of its ultimate financial exposure.

3 Financial Considerations

3.1 Claw-back liability under the Scheme of Arrangement

The Council 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. This advice has been amended to 75% in the 2015 Actuarial Review of the Insurance Fund.

As at 31 March 2015 £8.1m of claim payments had been made under the Council's MMI policies with a further £0.8m of known claims outstanding and still to be settled. There is also a further £4m of estimated Incurred but not reported claims (IBNR). If a maximum levy of 75% were applied the Council would be faced with having to make a potential additional payment of £8.1m under the Scheme. This figure takes into account estimated recoveries from Derbyshire Police and the levy payment already made.

The current insurance reserve contains an allowance for potential liability at the 75% levy level. A separate report has been presented regarding the balance of the overall Insurance Fund. Any future fund deficit arising from the MMI scheme arrangement would need to be met from General Reserves.

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 Recommendations

- (a) Note that £8.1m has been set aside in the Insurance Reserves as a contribution to the Clawback.
- (b) Note that future uninsured claims will be monitored and budgetary provision made to meet those claims as and when required with any deficit being met from General Reserves

PETER HANDFORD

Director of Finance

1 September 2015