

**Report of the Chief Officer (Audit & Investment)**

**Report to Deputy Chief Executive**

**Date: 16<sup>th</sup> September 2014**

**Subject: Review of Liability Claims Handling Arrangements**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4 (3)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Appendix number: A		

**Summary of main issues**

1. Liability claims handling is currently carried out by the council's liability insurers Zurich Municipal, under a contract valued at £440k per annum. Originally it was a contractual requirement when placing insurance that the insurer carried out the claims handling including claims funded by the council. Insurers recognise the financial pressures under which local authorities are currently operating and having been challenged have conceded that they are agreeable to Leeds City Council handling all self-funded claims in-house. It is therefore proposed that Leeds City Council creates an in-house claims handling function to achieve projected savings of approximately £1.3m over the next five years and further savings of the same order in subsequent years.

**Recommendations**

2. It is recommended that the Deputy Chief Executive approves a restructure of the council's Insurance Section to add a fully functioning claims handling service which involves recruiting 7 new posts in order to replace the claims handling contract and thereby affect savings of approximately £1.3m over the next five years.

## **1 Purpose of this report**

- 1.1 To set out the current position as regards liability insurance and claims handling and to explain how restructuring and creating a new in-house claims handling service to replace the current system will achieve substantial financial benefits for Leeds City Council.

## **2 Background information**

- 2.1 Employers Liability and Public Liability insurance has been placed with Zurich Municipal under a contract which was due for retender, with the new contract commencing 1<sup>st</sup> April 2014.
- 2.2 Up until 1992, most local authorities were insured by the local government mutual insurer, Municipal Mutual Insurance (MMI). As the larger local authorities such as Leeds tended to have large policy excesses and therefore paid from their own funds most of the compensation claims they received, MMI allowed larger authorities to handle their own claims in-house.
- 2.3 The protection provided by liability insurance policies typically includes an additional measure known as “aggregate stop protection”. This operates on the basis that where local authorities pay their own claims, a limit is set for the total amount paid for incidents occurring in any one year, if that limit is exceeded the insurer will waive the policy excess for all further claims for that policy year. This therefore provides financial protection to the policyholder in the event of a catastrophic run of claims in one year.
- 2.4 Insurers have solvency margins within which they must remain if they are to continue in business. A major factor in calculating an insurer’s solvency margin is the estimated total value of their liability to pay open but not yet paid claims.
- 2.5 Local Authorities who handled their own claims were required to place an estimate of the value of each open but not yet paid claim. Each year the total estimated value of open claims was declared to MMI who incorporated the total of those values from all their policyholders into their solvency margin calculations because the aggregate stop protection they gave to their policyholders was affected.
- 2.6 A number of MMI’s policyholders unexpectedly reached their aggregate stop levels in the late 1980s and early 1990s (including Leeds). On investigation it emerged that local authorities were not accurately recording or reviewing estimates on open claims and a more accurate value placed against all open claims showed MMI’s total liabilities to be far higher than expected.
- 2.7 This led to a period of substantial losses and in 1992, unable to meet solvency margin requirements, MMI went into administration. Had they received more accurate estimates, they would have charged higher premiums and may have avoided insolvency.
- 2.8 The business was bought by Zurich Insurance, who formed a specialist local authority insurer, Zurich Municipal Insurance.
- 2.9 In order to protect themselves from a repeat of the MMI problems, Zurich Municipal and other local authority insurers would insist on handling claims, even though most of them were funded by the policyholder. This enabled the insurer to be certain that accurate estimates were placed on open claims.

- 2.10 This has been the case for Leeds City Council in tendering for insurance cover since the 1990s.
- 2.11 Research carried out by the council's Insurance Manager showed that insurer's stance in relation to claims handling was softening and there is therefore an opportunity to change the way claims are handled in order to make a substantial saving in the cost of claims handling.

### **3 Main issues**

- 3.1 There are only three insurers who will provide liability insurance to local authorities. They are Zurich Municipal, Travelers and RMP. Preliminary meetings were held with those insurers as part of the run up to the tender process. At those meetings it was made clear that Leeds City Council intended to bring claims handling in-house.
- 3.2 The insurers were given information as to how the council plans to handle claims and also the background and experience of the staff currently in Leeds City Council's insurance section.
- 3.3 All three insurers confirmed that they were happy to tender for Leeds City Council's liability insurance on the basis that claims will be handled in-house.
- 3.4 There are be some exceptions in respect of potentially large claims which insurers will require to be notified to them and handled by them or by external solicitors, but historically there are very few claims which fall into this category. Each such claim will be judged on its own merits and, by their very nature, will be exceptional.
- 3.5 In 2013/14, Leeds City Council paid Zurich Municipal £439,555 to handle employers and public liability claims arising from incidents which occur during the 2013/14 year. This is a 'flat' charge and has not changed since the commencement of the current contract, other than to include inflation as allowed by the contract. Zurich Municipal handle around 2,200 claims per annum.
- 3.6 It is therefore reasonable to assume that the cost of claims handling going forward will be circa £2.2m over a contract period of five years commencing 1<sup>st</sup> April 2014. Zurich Municipal have advised that should the council wish to continue using their claims handling service from 2014 onwards the cost will be £469,200 per annum.
- 3.7 Experienced professional staff will need to be recruited externally for the Claims Manager post in order to ensure proper handling of claims, particularly in relation to compliance with civil justice protocols and the new Ministry of Justice personal injury claims portal which began operation recently. The required skills, knowledge and experience are not currently held by any staff currently employed by the council due to the specialised technical nature of the post requirement. However, the annual saving of £439k, less staffing costs commences from day one, so effectively no up-front investment is required.
- 3.8 The cost of staffing and resourcing the new insurance claims handling function is set out in the spreadsheets contained in appendix A to this report. As Appendix A contains information relating to the financial or business affairs of any particular person, the Appendix is included as confidential in accordance with the Council's Access to Information Procedure Rules (10.4 (3))
- 3.9 The new posts have been through the Job Evaluation process for the grades to be determined.

- 3.10 Not all the posts need to be filled from 1<sup>st</sup> April 2014. This is because Zurich Municipal will continue to handle claims arising out of incidents which occur up to 31<sup>st</sup> March 2014, the cost of that claims handling is included in the fees already paid to Zurich Municipal. During 2014/15, the Claims Manager Post (PO1), one Personal Injury Claims Handler (C1) and the Claims Assistant (A1/B1) are posts which will need to be filled. The other Personal Injury Claims Handler posts can be filled later as the workload builds up from incidents which happen after 1<sup>st</sup> April 2014. The number of claims that require handling is, based on the previous year's experience, likely to average about 120 per month. Given the inevitable delay in such claims being submitted we anticipate about 10 claims in the first month, 60 or 70 in the second month, 100 in the third month.
- 3.11 One existing Claims Liaison Officer post (C1/C3) is to be deleted and a new post created, Claims Investigator (SO1), which will be ring-fenced to applications from existing members of the insurance section. This is to replace work currently carried out by Zurich Municipal. The role and responsibilities of the current Insurance Manager post (PO5/6) has been revised in line with the changes described within this report.
- 3.12 Over the five years from 1<sup>st</sup> April 2014, the cost of staffing the new insurance claims handling function is projected to be £890k.
- 3.13 This project will therefore realise a saving, in round figures, of £2.2m - £0.9m = **£1.3m** over five years. At the end of the five year period, it is anticipated that the arrangement will continue and realise further equivalent savings over ensuing years.
- 3.14 The budget includes provision for upgrading the existing claims handling database system by purchasing the supplier's latest version which will include the facility to import data directly from the online Claims Portal and create new claims records directly on our database. If successful, this may reduce the requirement for four personal injury claims handlers to three and increase the projected savings achieved by £127k over the five years.
- 3.15 Grades for the new posts have been arrived at following research in the jobs market and by formal job evaluation of the job descriptions. Job descriptions are included in the appendices.
- 3.16 Discussion with the current service provider have concluded that the one member of staff engaged by the provider exclusively on the current contract has been reassigned to other duties and they would not envisage TUPE applying. Written confirmation has been received from the service provider that this is the case. The Council would concur with this position as this maximises the opportunity to redeploy staff from other areas of the Council that are either 'at risk' and/or in Managing Workforce Change. Indeed, job descriptions have been drafted so that a proportion of the new staff do not need prior experience of working in the insurance sector. It is felt that a commitment to training and development would allow the team to be constructed with both colleagues with industry experience and those that with no such experience that can be re-trained. All recruitment and selection will be undertaken in accordance with Council policies.
- 3.17 The proposal, as a decision the consequences of which would be savings in excess of £250,000 per annum, was included on list of forthcoming key decisions.
- 3.18 The new posts within this proposed structure have all been through job evaluation and confirmed at the grades suggested. Due to the proposed changes to Terms and Conditions of employment, which were unanimously agreed by the Council's General Purpose Committee on 29 July 2014, the implementation of this restructure and

assimilation process will be in accordance with the Council's policies and procedures in place at the time implementation commences.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 Current staff in post have been consulted on the proposal. All staff currently in Insurance posts were sent a copy of the report and invited to provide comments. Comments received have been incorporated in the report. The trade unions have also been consulted on the proposals and the opportunities for recruiting some posts from the talent pool and the requisite retraining have been highlighted to the unions. The deadline for comments has passed without any substantive comments from the unions.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There is one post on the existing structure that will be at risk. All recruitment to the proposed structure will be undertaken in accordance with the Council's policies and procedures relating to recruitment.

### **4.3 Council policies and City Priorities**

4.3.1 One of the Best Council objectives is to become a more efficient and enterprising Council. These proposals are a more efficient way of claims handling as the proposal to in-source the function will save £1.3m over the next 5 years when compared to the fee that would have been payable to the existing provider of the claims handling function.

### **4.4 Resources and value for money**

4.4.1 The 2014/15 budget includes significant savings in respect of the insurance function. Savings from the retendering of insurance policies has saved £0.765m per annum and the proposal to in-source claims handling saves £0.26m per annum when compared to the previous fee of £0.440m paid for the function. This represents significant value for money. The costs of the proposed structure and the savings from bringing the function in house have been included in the approved budget.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 There are no specific legal implications of this report. The proposal, the consequences of which would be savings in excess of £250,000 per annum, was included on list of forthcoming key decisions and is therefore subject to call in.

### **4.6 Risk Management**

4.6.1 Due consideration was given in the drafting of this staffing structure to the budget savings included in the 2014/15 budget. If the proposals are not implemented the budgeted savings of £0.26m per annum are at considerable risk as the Council would have to make immediate arrangements to contract for a claims handling service.

## **5 Conclusions**

5.1 By bringing liability claims handling in-house, substantial savings can be realised of the order of £1.3m over the next 5 years and, in addition, the council will have greater control

of claims payments and claims handling strategy. No up-front investment is required, costs being balanced out by the immediate saving of the claims handling fee realised from 1<sup>st</sup> April 2014.

## 6 Recommendations

- 6.1 It is recommended that the Deputy Chief Executive authorises the project to bring liability claims handling in-house and thereby achieve savings for Leeds City Council of the order of £1.3m over the next five years and subsequently.
- 6.2 The following table sets out, grade by grade, the current structure and the proposed changes:
- 6.3 The Deputy Chief Executive is recommended to authorise the proposed new structure for the insurance section as set out below and in the table on the following page.

Delete 1 x C1/C3 Post

Create 1 x SO1 Post

Create 4 x C1 Posts – the 5 C1 posts on the proposed structure (4 new posts and one existing post) will be ring-fenced, in the first instance, to the 2 current post holders

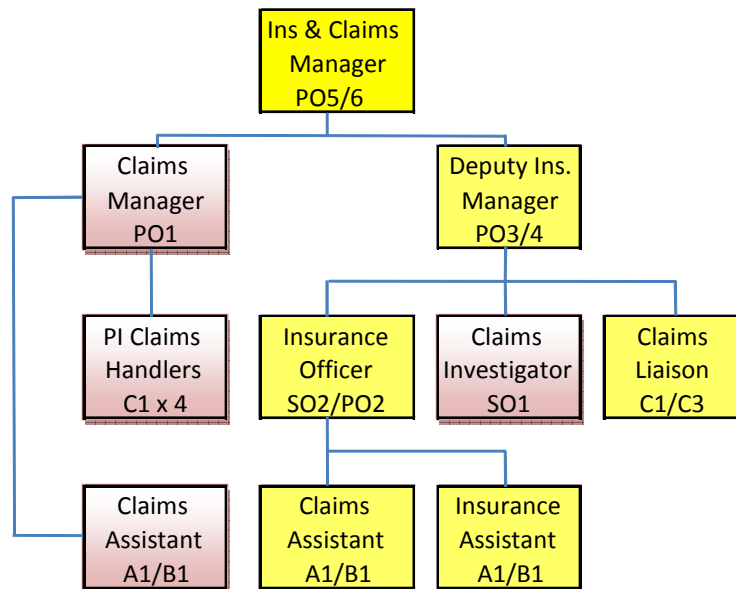
Create 1 x A1/B1 Post

Create 1 x PO1 Post

Post	Grade	Current structure	Proposed structure	Plus or minus
Insurance and claims manager	PO5/6	1	1	0
Deputy Insurance Manager	PO3/4	1	1	0
Insurance Officer	SO2/PO2	1	1	0
Claims Manager	PO1	0	1	+1
Claims Investigator	SO1	0	1	+1
Claims Handlers	C1	0	4	+4
Claims Liaison	C1/C3	2	1	-1

Officer				
Insurance Assistant	A1/B1	2	3	+1
Total		7	13	+6

### Insurance Section - Proposed Structure



= Existing Post

= New Post

## 7 Background documents<sup>1</sup>

### 7.1 None

<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.