



Report of the Director of Resources

Corporate Governance and Audit Committee

Date: 14th February 2011

Subject: Reporting Arrangements for Significant Claims Against the Council

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1. Executive Summary

- 1.1 Members require a reporting mechanism whereby they can be informed of claims made against the Council be they be legal claims or any other claim which might have a significant impact on the Council.
- 1.2 Processes already exist which provide details of significant insurance claims to Financial Management and it may be suitable to adapt those systems to inform Members as required.
- 1.3 Similar processes exist with Legal Licensing & Registration and these may also be adapted to serve the required purpose.

2. Purpose of This Report

- 2.1 To advise the committee of current arrangements for advising management of significant legal action against the Council and to discuss how to make additional arrangements so that Members on the Corporate Governance and Audit Committee can also be made aware of significant cases.

3. Background Information

- 3.1 At any one time there are many legal actions taking place against LCC. The most frequent kind, claims for injury or loss of or damage to property are dealt with by the Council's Insurance Section. These number around two thousand per annum. All of these claims are recorded by the Insurance Section and at that point notified to the relevant department. Most of these claims are outsourced to Zurich Municipal for handling purposes. They are then given an estimated value, which is recorded on the Insurance Section database, pending closure.
- 3.2 Reports are submitted on a regular basis to departmental managers as follows.

- 3.3 A summary report of claims received, closed or altered in the previous 3 months grouped by Department then Cause is sent quarterly to Finance Managers in all the Directorates, ALMOs and BITMO. A detailed report of such claims relating to Passenger Services is sent to the Head of Service – Passenger Transport.
- 3.4 Detailed report of Employer’s Liability claims received, closed or altered in the previous 3 months also grouped by Department then Cause is sent quarterly to members of CORS.
- 3.5 A summary report of all claims received in the previous 5 years grouped by class of business showing trends in claims numbers and claims costs sent annually to Finance Managers.
- 3.6 In addition, Financial Management has a regular dialogue with the Insurance Section to closely monitor developments on potentially high value claims.
- 3.7 The following table shows all open public liability and employers’ liability claims banded by value with the number of claims shown for each value band, except for the highest value claims whose values are listed individually (N.B. the maximum payable by Leeds City Council for any one claim is £500k):

Claims up to £5k	945
Claims £5k to £10k	618
Claims £10k to £25k	602
Claims £25k to £100k	97
Claims £100k to £200k	10
Individual High Value Claims	
	£200,000
	£225,000
	£246,634
	£250,000
	£385,861
	£400,000
	£476,049
	£544,350
	£544,864
	£574,935
	£728,549

4. Insurance Arrangements

- 4.1 Leeds City Council has been insured by Zurich Municipal for compensation claims since 1st April 1999. The contracts are let on a five year basis. Zurich Municipal have won the business through the tender process twice since then.
- 4.2 Zurich Municipal insure Public Liability, Employer's Liability, Officials Indemnity, Libel and Slander and Land Charges risks. Leeds City Council is insured up to a maximum of £40m any one claim for employers and public liability and £5m for the other insurance covers mentioned above.
- 4.3 As a very large organisation, it is certain that we will receive a predictable number of compensation claims each year. Rather than pay Zurich Municipal to deal with all of them and have them charge us an insurance premium based on an equivalent figure with profit and overheads added, Zurich Municipal only insure claims with an individual value of £500,000 or more. Leeds City Council funds all claims which fall below that figure, including legal costs.
- 4.4 Claimants have up to three years in which to make their claim for compensation following an injury unless they are minors in which case they have up until three years after their eighteenth birthday. Persons who lack the capacity to be responsible for their own affairs are not limited at all. Section 33 of the Limitation Act 1980 allows courts to waive limitation if it is felt appropriate. This is most relevant in cases of abuse perpetrated many years ago.
- 4.5 In addition to insuring claims valued at £500,000 or above, Zurich Municipal also provide "aggregate stop protection" at a level of £10m. This means that for any one year, if the claims we pay from our own funds exceed £10m, then all claims for the remainder of that policy year will be paid in full by Zurich Municipal. In the past the aggregate stop protection has been as low as £6m. For the financial years 2000, 2001 and 2002 Leeds City Council reached the aggregate stop limit and Zurich Municipal are paying in full any claims which arrive for incidents which occurred in those years.
- 4.6 Zurich Municipal, in common with the other local authority insurers, insist on handling the self insured claims for Leeds City Council, because of their financial exposure in relation to the aggregate stop protection and in particular because of historic problems with local authorities who did their own claims handling not recording adequate estimates against current claims. An annual fee is paid to Zurich Municipal for liability claims handling. In 2008/09, 2,218 public liability claims and 155 employers liability claims were sent to Zurich Municipal for handling.
- 4.8 Annual audits of a sample of Zurich Municipal claim files are carried out by officers from Resources and Legal Services. Financial data is imported to the LACHS system on a monthly basis from Zurich Municipal's database.

4.9 All new claims are sent to the Insurance Section in Resources where they are recorded on our own claims database (LACHS). The Insurance Section then requests a report and any other relevant information from the relevant council department. No claim proceeds any further than this without the department concerned being made aware. The opportunity is therefore already in place for any 'issues' to be raised within that department at this point. The claim is then sent to Zurich Municipal for handling. Zurich Municipal investigate by obtaining all relevant information from the relevant employing department and either agree settlement or repudiate the claim. Zurich Municipal liaise closely with Leeds City Council where any individual claim has a potentially high value, is possibly fraudulent or has the potential for media coverage.

5. Trend Analysis

5.1 One of the principal reasons for having a comprehensive database of claims information is to have the ability to analyse that information to identify any trends which may require attention.

5.2 An example of this is in relation to the ALMOs. It became apparent that pavement trips were increasing and that the ALMOs did not have a legal defence in the way that Highways have because they did not have any system for inspecting footways and recording inspections, defects and remedial action taken. Officers from the Insurance Section worked with the relevant ALMO officers in order to set up such a system, which they did by entering an arrangement with Highways to carry out inspections.

5.3 The Insurance Section is currently working on an analysis of Highways claims which have been paid in order to identify any 'tightening up' of procedures which could improve the successful defence rate.

5.4 Where a change in working practices could eliminate or reduce claims, recommendations will be made to the relevant services, but in most cases Leeds City Council has very good Health and Safety procedures and other procedures. For example, there is a relatively small number of employers liability claims made, given a workforce of approximately 27,000. In most cases claims are paid because our own procedures have not been followed or defects have been left unattended, e.g. faulty chair not replaced promptly resulting in it collapsing and causing a back injury to employee.

6. Implications for Council Policy and Governance

6.1 There are no implications for Council Policy and Governance.

7. Legal and Resource Implications

7.1 There are no Legal and Resource implications.

8. Conclusions

8.1 Members of the Corporate Governance and Audit Committee and the relevant lead Member for affected services should be made aware of significant claims made against the Council and a process by which that information may be conveyed should be implemented in a manner satisfactory to Members.

8.2 It is proposed that the Insurance Manager will supply a brief report of significant claims to the Corporate Governance Committee in advance of each meeting. Members of the committee can request further information post meeting, if required.

9. Recommendations

9.1 It is recommended that Members confirm if they are satisfied with the process for dealing with trends in insurance claims and the proposed process for informing Members of significant claims against the Council.

Background Documents Used - None