

GWYNEDD COUNCIL

COMMITTEE	AUDIT COMMITTEE
DATE	11 FEBRUARY 2016
TITLE	INSURANCE CLAIMS AGAINST THE COUNCIL
PURPOSE OF THE REPORT	PROVIDE AN OPPORTUNITY FOR THE AUDIT COMMITTEE TO SCRUTINISE THE COUNCIL'S ARRANGEMENTS FOR DEALING WITH INSURANCE CLAIMS
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1. INTRODUCTION

- 1.1 Articles recently appeared in the press giving particular attention to successful insurance claims (public liability and employer's liability) against Gwynedd Council.
- 1.2 Some of these headings were extremely striking, such as:

“Gwynedd Council's £13,000 compensation payout for 'hands stinging after doing washing up’” (*Daily Post*, 21 January 2016)

“Council pays out hundreds of thousands in compensation claims. Gwynedd Council has spent hundreds of thousands of pounds in compensation on several curious claims.” (*Cambrian News*, 26 January 2016)
- 1.3 The Audit Committee is responsible for dealing with issues relating to risk, and dealing with insurance claims is part of that. Therefore, in order to carry out its duties as "those responsible for governance", there is a need for the Audit Committee to:
 - **Accept this report which explains the arrangements within Gwynedd Council for dealing with insurance claims.**
 - **Scrutinise the arrangements that are in place, so that it is clear that the Council has procedures in place to ensure that insurance payments are appropriate.**

2. BACKGROUND

2.1 In September 2015, the TaxPayers' Alliance campaign group wrote to every local authority in Wales, England and Scotland under the Freedom of Information Act requesting the following:

I am writing to ask for information regarding all compensation claims made against the local authority in 2013-14 and 2014-15.

Specifically I would like the information broken down by:

- a) The value of each payment or settlement
- b) The nature or summary details of each claim

Please do not include any personal details.

2.2 Because some of these questions are a little vague, we wrote to the TaxPayers ' Alliance to ask them for clarification on some of the questions. These questions, and the answers given, are listed below:

Q: Do you require information relating to property damage and personal injury claims from members of the public? A: Yes

Q: Do you require information relating to claims of personal injury from staff? A: Yes

Q: Do you want information relating to claims that have not been successful or only those which have received compensation? A: Only successful

Q: Do you require the information for claims submitted in 2013-14 and 2014-15 or those with an incident date in those years? A: Claims settled (successfully) in those years irrespective of when the incident arose.

2.3 A list was sent that included settled claims where there were payments.

2.4 The TaxPayers' Alliance issued a press release on 21 January 2016 under the heading "Bill for council compensation payments tops £100 million". They have indicated on their website that over £104 million have been paid in compensation by all the relevant Councils. The website includes an analysis of the information sent by the various Councils, including a total of £483,378 by Gwynedd Council – £425,203 in 2013/14 and £58,175 in 2014/15.

2.5 However, when we analysed the results it became apparent that different Councils had interpreted the request for information in different ways, whilst others did not answer at all. The TaxPayers' Alliance had not interpreted the Gwynedd Council figures correctly either. **The actual figures for Gwynedd Council were £484,828 yn 2013/14 and £206,605 in 2014/15.**

2.6 Only part of the costs relating to an insurance claim is the compensation itself, as there are other costs such as the costs of lawyers. The figures quoted above are not the amount of compensation, but all the cost of the cases, whether paid by the Council directly or by our insurers. The subsequent news articles have misunderstood this, stating that all amounts have paid as compensation to the victim, where this is not correct.

2.7 The figures published for Gwynedd Council is significantly higher than any other Council in the region. We are convinced that different Councils interpreted the freedom of information request in different ways, and certainly unlike Gwynedd Council.

2.8 It is not reasonable, therefore, to compare the results of different councils because there is no assurance that we will be comparing like-for-like.

3. GWYNEDD COUNCIL'S ARRANGEMENTS FOR DEALING WITH INSURANCE CLAIMS

3.1 The purpose of the Insurance and Risk Unit is:

Supporting the Council's departments as they assess the threats and opportunities that they could face when providing their services and as they prioritise their activities on the basis of the assessment. Protect the interests of taxpayers by ensuring appropriate insurance arrangements and dealing with claims.

3.2 Two officers work in the unit, namely the of Insurance and Risk Co-ordination Manager, and Insurance Officer

3.3 As shown in part 2 of this report, the freedom of information request was limited to the claims that had been settled with cost. There was no interest in the achievements of the local authorities in defending claims made against them.

3.4 The table that is included in the Appendix 1 contains details of all insurance claims settled in 2013-14 and 2014-15. The claims set out in the appendix with the status "Settled with cost", are the ones sent in response to the freedom of information request.

3.5 Given the purpose of the unit, the main performance measure for demonstrating that we are achieving our purpose is **Protecting the financial interests of the taxpayer: percentage of public liability claims denied (settled for £0).**

3.6 Analysis of all public liability and employer's liability claims settled in 2013-14 and 2014-15 shows the following:

Public Liability

	2013/14	2014/15
Number of Public Liability claims closed, with costs	33 (26%)	26 (22.2%)
Number of Public Liability claims closed, without costs	94 (74%)	91 (77.8%)
Total number of Public Liability claims closed	127	117

Employer's Liability

	2013/14	2014/15
Number of Employer's Liability claims closed, with costs	5 (55.6%)	3 (43%)
Number of Employer's Liability claims closed, without costs	4 (44.4%)	4 (57%)
Total number of Employer's Liability claims closed	9	7

Public Liability and Employer's Liability together

	2013/14	2014/15
Number of Liability claims closed, with costs	38 (28%)	29 (23.4%)
Number of Liability claims closed, without costs	98 (72%)	95 (76.6%)
Total number of Liability claims closed	136	124

3.7 **That is, in 2013/14 72%, and in 2014/15 76.6%, of liability claims against Gwynedd Council were settled without costs.**

4. ROLE OF THE INSURANCE COMPANY

- 4.1 All of the cases listed in the Appendix were subject to an excess of £25,000 (with the exception of two cases dating before 1 April 2006, where the excess was £10,000). Gwynedd Council paid any costs on the individual claims up to this threshold, and our insurance company pay any amounts above that.
- 4.2 However, it should be borne in mind that even in those cases where the insurers bear the cost, there would eventually be a financial impact on the Council as a result of higher premium costs.
- 4.3 In order to pay the costs payable directly, the Council maintains an Internal Insurance Fund to which each of the Council's services contribute annually. The level of contributions varies, depending on the fund level that we believe would be prudent to keep. As the Audit Committee considered the levels of all Council reserves in June 2015, it was reported that £1,000,000 of the Internal Fund could be returned to balances, maintaining a level of £1,674,296. The decision of the Committee was to note the situation and the risks in the context of the Council's reserves and supporting the relevant policy.

5. DECISIONS TO SETTLE

- 5.1 In order for the Insurance and Risk Unit to defend insurance claims successfully, there is a need to demonstrate that arrangements are in place within the Council to mitigate the risks to a reasonable level. It is seen that we have been able to do that in the vast majority of cases, and the good collaboration between the Insurance and Risk Unit and all Council departments have assisted us to do so.
- 5.2 In order to be successful in a claim against the Council, the claimant must demonstrate that the Council had been negligent in some way. Of course, accountability is not clear in all cases, and some claims go as far as the civil courts for a decision. While the Insurance and Risk Unit is determined to defend the interests of the Council as far as possible, in some cases it must be accepted that it is not possible defend further, especially if this is the legal advice.
- 5.3 As part of the Unit's performance management regime, we analyse the claims which have been successful, in an attempt to identify if there are patterns, or places within units that need specific attention, whether it be training, change procedures, etc.
- 5.4 Every case that has been settled with costs has been done so because the Insurance and Risk Unit, perhaps in conjunction with the Insurers and their lawyers, and relevant Council departments, has come to the conclusion that the Council has contributed to personal injury or damage to personal property due to negligence or a mistake.
- 5.5 This is done with consideration of the results of previous court cases, which is the foundation of the legal system.

6. ARRANGEMENTS FROM APRIL 2016

6.1 The contract of our current insurance providers, Zurich Municipal, will expire on 31 March 2016 and following a tendering process during autumn 2015, new insurance contracts have been awarded for 1 April 2016 onwards. Zurich Municipal will continue to provide public liability protection and employer's liability, which is the subject of this report. However, providers of cover in other areas are changing. From 1 April 2016, following the tendering process, the Council's insurance providers will change as follows:

- Property Insurance – moving to Travelers
- Motor Insurance – moving to Maven
- Fidelity Guarantee and Crime Insurance – moving to RMP

6.2 As part of the process of testing the market, it was decided that the excesses of our public liability and employer's liability policies will increase to £50,000 from April 2016. On the basis of a detailed analysis of our claims history, the Finance Department came to the conclusion that it would be a reasonable step to increase the excesses in this way in order to take advantage of the much lower premium that would result. There is a possibility, of course, our costs could increase if the number of successful claims against us increases.

6.3 It will therefore be a continuing challenge, in conjunction with all Council services, to manage our insurable risks in order to reduce accidents and allegations of neglect, not only for financial reasons, but for the sake of our colleagues and the public.

7. RECOMMENDATION

7.1 The Audit Committee is asked:

- **Accept this report which explains the arrangements within Gwynedd Council for dealing with insurance claims.**
- **Scrutinise the arrangements that are in place, so that it is clear that the Council has procedures in place to ensure that insurance payments are appropriate.**