

AGENDA ITEM:

REPORT TO: Meeting of the	MERSEYSIDE FIRE & RESCUE AUTHORITY POLICY & RESOURCES COMMITTEE
DATE:	15TH JANUARY 2013
REPORT NO.	CFO/003/13
REPORTING OFFICER:	CLERK TO THE AUTHORITY
CONTACT OFFICER:	CAROLINE BERRY - LITIGATION CLAIMS OFFICER, EXTN: 4115
OFFICERS CONSULTED:	DEPUTY CHIEF EXECUTIVE, KIERAN TIMMINS
SUBJECT:	MUNICIPAL MUTUAL INSURANCE SCHEME OF ARRANGEMENT

THERE ARE NO APPENDICES TO THIS REPORT

Purpose of Report

1. To request that Members note the implications of this report relating to the impact of the triggering of the MMI Scheme of Arrangement.

Recommendation

2. That Members;
 - a) Note the report and its implications

Introduction & Background

3. Merseyside Fire & Rescue Authority was insured by Municipal Mutual Insurance (MMI) from 1974 until 1992.
4. MMI suffered substantial losses between 1990 and 1992 which reduced MMI's net assets to a level below the minimum regulatory solvency requirement. In September 1992 MMI ceased to write new, or to renew, general insurance business.
5. A Scheme of Arrangement was put in place to achieve an orderly run-off of claims and it was anticipated that a solvent run-off would be achieved and that the Scheme would be closed in 2003.
6. Merseyside Fire & Rescue Authority like most of MMI's public sector members participated in the Scheme of Arrangement and became a Scheme Creditor.
7. As a result, if at any time the Directors could no longer foresee a solvent run-off, the contingent Scheme of Arrangement would be activated and the Scheme

Administrator could levy amounts from the Scheme Creditors to a maximum of the amounts Creditors have received since October 1993 (less £50,000).

8. Although it was anticipated that all claims would be concluded and the Scheme closed in 2003, this has not proved to be the case due to continuing claims being made for mesothelioma and abuse. It is now anticipated that the Scheme will close in 2050.
9. In 2006 following a Court of Appeal decision in a public liability case, MMI sought to rely on this decision in respect of Employer's Liability claims and began to refuse liability for mesothelioma claims. The litigation which followed became known as the Employers' Liability "Trigger" Litigation and ultimately ended in an appeal to the Supreme Court who reinstated the approach to handling these types of claims that the insurance market had adopted up until 2005. This decision ensured that employers were not left uninsured and claimants uncompensated.
10. Had the decision favoured MMI their liabilities would have been significantly reduced and a solvent run-off would have been more likely.
11. However MMI's financial position has deteriorated over the last few years and their accounts for 2012 show a deficit of £85m
12. As a result on 13th November 2012 the Board of Director of MMI made the decision to trigger the Scheme of Arrangement and the control of the company has now passed to the Scheme Administrator to 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.
13. MFRA have received £1,521,037.46 in claims payments since October 1993. As such having taken into account the £50,000 which is not subject to clawback, MFRA could be asked to reimburse a levy amount up to £1,471,037.46.
14. There are currently six claims outstanding with MMI with a combined reserve of £173,500 and any monies paid would be added to the amount subject to clawback.
15. At the moment there is no indication of the percentage levy that will be imposed however in order to clear the deficit in the 2012 accounts a 12% levy would be required.
16. Any levy set as a result of the Scheme of Arrangement being triggered may not be a one-off charge but could be charged three or four time during the period of run-off.

Equality & Diversity Implications

17. This is a financial matter and there are no equality and diversity implications.

Staff Implications

18. There are no staff implications in increasing the reserve.

Legal Implications

19. Having participated in the scheme of arrangement MFRA are liable for any amounts levied by the administrators on scheme creditors

Financial Implications & Value for Money

20. MFRA has included within its insurance reserves a sum to account for approximately a 20% clawback in last year's accounts (£400,000). A 12% payment will be approximately £200,000.

Risk Management, Health & Safety, and Environmental Implications

21. None contained within this report.

Contribution to Our Mission – To Achieve; Safer Stronger Communities – Safe Effective Firefighters”

22. Adequate reserves will ensure that the Authority is protected in respect of potential liabilities.

BACKGROUND PAPERS

None