AGENDA ITEM NO. 3(3)

CABINET – 30TH APRIL 2013

SUBJECT: INSURANCE RENEWAL 2013-2014 & MMI LIABILITIES

REPORT BY: ACTING HEAD OF CORPORATE SERVICES AND SECTION 151 OFFICER

1. PURPOSE OF REPORT

1.1 To inform Cabinet of the outcome of a tender process for the provision of external insurance cover from April 2013 and to provide details of liabilities arising in respect of Municipal Mutual Insurance (MMI).

2. SUMMARY

2.1 The report outlines the savings achieved from the renewal of the Authority's external insurance provision and sets out details of liabilities arising from the occurrence of a "Trigger Event" under the MMI "Scheme of Arrangement".

3. LINKS TO STRATEGY

3.1 The various Council strategies involve delivery of services to residents and there are inherent risks which the Council needs to insure against.

4. THE REPORT

4.1 Insurance Renewal 2013

4.1.1 The existing Long Term Agreement for external insurance cover expired on the 31^{st} March 2013 and as a result a tender process commenced at the end of 2012. The insurance market has hardened quite considerably and at the start of the tender process the Authority's brokers warned that many other Authorities had been experiencing significant rises in their insurance premiums and there was real potential for a rise of up to 25% in the premium.

4.1.2 The Authority self-insures up to £250k and an internal fund has been established to meet the cost of claims in this category. The recent tender exercise has focussed on the premiums paid to the external market in relation to potential high value claims. The revised annual premium payable from April 2013 is £756k and it is pleasing to note that this represents a reduction of £113k on the previous year. Despite the warnings from the Authority's brokers and experiences elsewhere this reduction in the premium reflects the effective risk management practices that the Council adopts and the robust approach on fraudulent and spurious claims.

4.1.3 To take advantage of the favourable premiums in the tender, the new Long Term Agreement is for a period of 7 years.

4.2 **Mutual Municipal Insurance (MMI)**

4.2.1 MMI was the largest insurer for Local Authorities and provided cover for the former Mid Glamorgan and Gwent County Councils and Islwyn Borough Council and Rhymney Valley District Council. Between 1990 and 1992 MMI suffered substantial losses which reduced net assets to a level below the Department of Trade and Industry's minimum solvency requirement. The Directors attempted to dispose of all of MMI's undertakings and assets to a third party but, in the event, this did not prove to be possible. In September 1992, MMI ceased to write new, or to renew, general insurance business.

4.2.2 Since 1992 MMI has been engaged in the process of "running-off" its remaining liabilities and has been paying agreed claims in full. This process was expected to take many years and based on the information and advice available at the time, the Directors believed that a solvent run-off of MMI's liabilities could be achieved. However, it was recognised that the solvency of MMI could be affected adversely by future fluctuations in the value of property and other investment assets, decreases in investment yields, increases in liabilities and adjustments in estimated future claims payments. In the light of this, the Directors instructed Cork Gully (the insolvency practice of Coopers & Lybrand) to advise them on the options open to MMI.

4.2.3 Cork Gully advised the Directors of MMI that a Scheme of Arrangement was likely to be more beneficial for Scheme Creditors than the appointment of a provisional liquidator or liquidation and, against the background of the possibility that MMI might conceivably become insolvent (either temporarily or permanently) during the run-off period, the Directors resolved to seek to promote a Scheme.

4.2.4 A Scheme of Arrangement under section 425 of the Companies Act 1985 is a compromise or arrangement between a company and its creditors which becomes legally binding on the company and its creditors. The main elements of the MMI Scheme are summarised below: -

- During the Initial Scheme Period (before a Trigger Event, as described below, has occurred), all liabilities of MMI are payable in full in the ordinary course of business as and when they fall due. Insurance claims reported to MMI continue to be processed in the normal manner and agreed claims are paid in full in the same way as they have in the past.

- A Trigger Event will occur if the Directors give written notice to MMI and to the Scheme Administrator that: -

  a) the Directors conclude that, without the occurrence of a Trigger Event and the operation of the Scheme in accordance with its terms thereafter, there is no reasonable prospect that MMI will avoid going into insolvent liquidation; or

  b) the number of Directors has fallen, and remains for seven days, below two.

- If a Trigger Event occurs, a Levy may be imposed on all those Scheme Creditors which since the commencement of the Scheme have been paid an amount or amounts in respect of settled claims.

- After a Levy is imposed, future payments under the Scheme will be made at a reduced rate.

- The rate of Levy and the Payment Percentage is determined by Scheme Administrator acting in consultation with a Creditors Committee.

4.2.5 The Director's of MMI triggered MMI's Scheme of Arrangement on 13 November 2012 and Ernst & Young was appointed as the Scheme Administrator. Ernst & Young have carried out a review of the assets and liabilities of the Scheme to determine whether a Levy is required and has concluded that the initial rate of the Levy will be 15%. Under the Scheme this rate will be subject to review on an annual basis.

4.2.6 MMI will provide their normal six-monthly Scheme statement in April 2013. This statement has not yet been received but will provide an estimate of the Levy charge at the 15% rate based on the position as at 31 March 2013.

5. EQUALITIES IMPLICATIONS

5.1 This report is for information purposes only, so the Council's full Equalities Impact Assessment process does not need to be applied.

6. FINANCIAL IMPLICATIONS

6.1 The insurance premiums put in place as a result of the 2013 tender have resulted in annual savings to the Authority of £113k over the 7 year life of the agreement. All Directorates are recharged on an annual basis to meet the cost of external insurance cover and self-insurance. The reduced premium arising from the tender exercise and recent claims history on self-insurance provides an opportunity to reduce the level of this annual recharge by an estimated £300k and this will be factored into the Council's Medium-Term Financial Plan.

6.2 The Authority is awaiting details of the Levy charge from MMI. However, based on information available in the last six-monthly statement (September 2012) the estimated cost of the Levy is £724k for settled claims and £40k for claims yet to be settled. After adjusting for earmarked reserves that can be applied the net projected cost for Caerphilly CBC is currently a minimum of £450k.

6.3 Every 2 years the Authority commissions an independent evaluation of its self-insurance arrangements and historically this has resulted in a one-off release of circa £1m. The next review is due in the 2013/14 financial year and it is proposed that the first call on the funding released should be the cost of the Levy.

7. PERSONNEL IMPLICATIONS

7.1 There are no personnel implications.

8. CONSULTATIONS

8.1 There are no consultation responses, which have not been reflected in this report.

9. RECOMMENDATIONS

9.1 It is recommended that Cabinet: -

- notes the saving of £113k on the recent tender exercise and the potential for a reduction of £300k in departmental recharges on an annual basis;
- agrees that these savings will be built into the Medium-Term Financial Plan once the final value of the MMI Levy has been confirmed; and
- agrees that the first call on funding released as part of the forthcoming external review of the Authority's self-insurance arrangements should be the cost of the Levy.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To ensure that the Council acts prudently by making funding available to address current and future MMI liabilities.

11. STATUTORY POWER

11.1 The Local Government Act 1972.

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