REPORT TO:	**FINANCE AND MANAGEMENT COMMITTEE - SPECIAL**	**AGENDA ITEM: 7**
DATE OF MEETING:	**22nd MAY 2013**	**CATEGORY: DELEGATED**
REPORT FROM:	**DIRECTOR OF FINANCE and CORPORATE SERVICES**	**OPEN**
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SUBJECT:	**MUNICIPAL MUTUAL INSURANCE LIMITED**	**REF**
WARD (S) AFFECTED:	**ALL**	**TERMS OF REFERENCE: FM 08**

1.0 Recommendations

1.1 That the current status regarding the Scheme of Arrangement with Municipal Mutual Insurance is noted.

2.0 Purpose of Report

2.1 To provide an update of the Scheme of Arrangement between the Council and Municipal Mutual Insurance (MMI) Limited and the potential financial implications arising from the scheme's administrator triggering that arrangement.

3.0 Detail

Background

3.1 Back in September 1992, the main insurer for local authorities (MMI) declared that it was no longer able to write new insurance business and would be going into "run off." This is a term that is used when an insurance company has become technically insolvent and is similar to a company going into administration.

3.2 MMI had been an insurer for local authorities for many years but suffered substantial losses between 1990 and 1992. These losses reduced MMI's net assets to a level below the minimum regulatory solvency requirement.

Scheme of Arrangement

3.3 Shortly after the run off declaration, MMI negotiated a Scheme of Arrangement with its creditors, who were mainly local authorities. This was subsequently agreed by the High Court under Company Act Legislation and became effective from January 2004.

3.4 In summary, the scheme allows MMI to claw back claims paid on behalf of scheme creditors from October 1992 if at some point MMI could not foresee a solvent run off of for the Company. The Council was a policy holder with MMI in 1992; it subsequently became part of the Scheme and is covered by the arrangement.

3.5 Since 1992, MMI have settled outstanding claims on the Council's behalf under the Scheme. This has been possible due to MMI operating as a going concern - disposing of assets, holding investments and having sufficient resources to cover liabilities.

3.6 The run off was expected to have been completed by 2006. However, some claims have taken longer to settle than envisaged. The main issue that MMI have been facing is that they are still picking up claims that flow from long term diseases such as asbestos related conditions.

Recent Performance

3.7 In October 2012, MMI published their latest set of accounts which showed a deteriorating financial performance with a net liability on their balance sheet of £152.8m. Consequently, in November 2012, the Directors of MMI triggered the Scheme of Arrangement. The control of the company then transferred from the Directors to the appointed administrator, Ernst and Young (EY).

3.8 EY have been conducting a review of MMI's financial position to determine how to meet the financial liability outstanding. Under the Scheme of Arrangement, EY can initiate a Levy, under clawback arrangements, on creditors to make good a financial shortfall. The Levy is subject to a minimum threshold.

KPMG Review

3.9 As part of EY reviewing the assets and liabilities of MMI, they commissioned KPMG to undertake an actuarial review of the insurance liabilities as at 31st December 2012. This concluded that the projection for future claims is uncertain and they provided MMI with a range of estimates.

3.10 Using this information and based on assumptions regarding investment returns, EY have indicated that a Levy of between 9.5% and 28% is required to achieve a projected solvent run off. In April 2013, EY informed all creditors, including the Council, that they were setting a Levy of 15%, which is based on a mid-point estimate provided by KPMG.

3.11 This will require the Council to make an initial payment to MMI based on this percentage. The Scheme requires EY to review the Levy rate at least once per year and they can adjust the rate up or down.

3.12 This will depend on liability trends. Due to the latent nature of many claims that MMI is still receiving and that many of the trends in reporting continue to be adverse, the projections are subject to substantial uncertainty.

4.0 Financial Implications

4.1 The levy for each creditor is based on the amount of claims settled by MMI since 1992, subject to a minimum threshold of £50,000. As at 31st March 2013, MMI had settled claims on behalf of the Council since 1992 to the value of £131,645. At this stage, there are another two known claims outstanding.

4.2 After taking account of the threshold and applying 15% to the balance, this gives a Levy of **£12,247**. This will be payable in 2013/14. It is unbudgeted expenditure and will be met from the General Fund Reserve.

4.3 Although this payment on its own will not materially affect the Council's overall financial position, the payment of future levies is possible and could be greater. As EY have highlighted, there is much uncertainty around any future payment and further claims, as yet unknown, may arise in the future.

4.4 Following the payment of £12,247, the Council's possible future liability based on claims paid to-date is £69,398. However, the value of the 2 outstanding claims is not yet known and further claims may arise.

4.5 The Council is not required to set up a separate provision for this amount in its accounts as the liability is only possible and no further amounts may ever become due.

4.6 However, it would be prudent to earmark an amount in the MTFP against general reserves in much the same way as that provided for the possible refund of personal search fees. This will be considered as part of the review of the MTFP later in the year.

4.7 The Council's accounts will however need to disclose the current position as a Contingent Liability (a note) in its statutory financial statements.

5.0 Corporate Implications

5.1 None directly

6.0 Community Implications

6.1 None directly

7.0 Background Papers

7.1 MMI Scheme of Arrangement

http://www.mminsurance.co.uk/MMI_Website/main.html