



# UPDATE: MUNICIPAL MUTUAL INSURANCE LIMITED

January 2022

## SUMMARY

This bulletin is intended to provide you with an update to the position of Municipal Mutual Insurance (MMI) following the recent publication of their accounts as at 30 June 2021,<sup>1</sup> as well as recommendations to ensure that you can cover your self-insured liabilities.

### Current position

MMI has collected the original 15% levy (set in January 2014) and the additional 10% levy in April 2016. As a result, the members of the Scheme of Arrangement are now self-insured to the extent of 25% of any future claim payments. Depending on the future claims experience, these levies may be adjusted so that the scheme is able to meet its obligations to the creditors.

### Commentary on June 2021 accounts

Within the 2020/2021 accounts, Richard Barker (the scheme administrator) has indicated a profit of £nil for the company in the past year (2019/2020 profit was £nil). Grant Thornton remain as external auditors.

Some of the key comments outlined in the scheme administrator's strategic review are:

- The current accumulated loss on the balance sheet is £nil; as it was last year.

- There has been a reversal of the prior year positive market movements in the value of MMI's investment portfolio.
- The gross reserves for claims have reduced by slightly more than expected during the year, resulting in a release to profit.
- There have been reductions in the number of outstanding claims, especially on employers' liability.
- No further increases to the levy (from 25%) are currently anticipated.

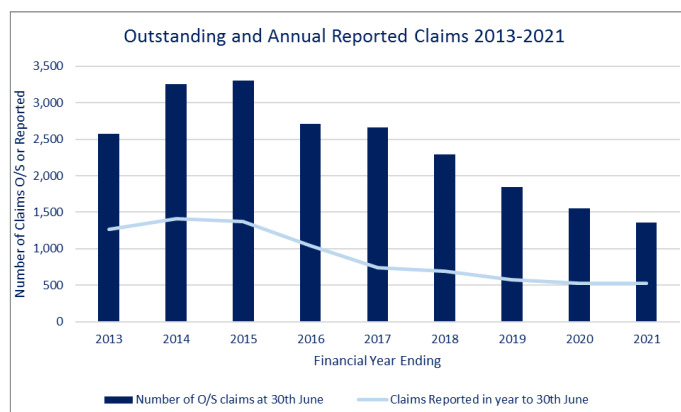
Due to the latent nature of some claims, MMI's independent actuaries (KPMG) projections are subject to substantial uncertainty and it is not possible to guarantee that the total levy of 25% will remain sufficient.

The requirement to meet Solvency II legislation means that MMI has considerably raised the standards of their financial risk management in recent years, which includes the directors considering impact of strategic decisions made in the organisation.

<sup>1</sup><https://www.mminsure.co.uk/reports-and-accounts>

## MMI claim trends

The chart below shows numbers of outstanding claims and newly reported claims over recent years. There has been a broadly decreasing number of claims reported annually and outstanding in recent years; however, given the high numbers there is significant residual uncertainty.



## Key future risk

The impact of possible future adverse claims trends is the key risk for potential further deterioration and levy increases. Additionally, new types of latent claims may emerge in the coming years for which no provisions have so far been made. We note that MMI's actuaries assume that the run-off of claims will continue until 2060, indicating the long-term nature of this uncertainty.

The current claims provisions relate to employers' liability (over two thirds of the outstanding claims estimations) and public liability (less than one third of the outstanding claims estimations). A large proportion of the provisions for employers' liability relates to mesothelioma, with other asbestos-related illnesses and industrial diseases contributing less; for public liability the most significant claim type is abuse. The below comments are intended to provide some wider market background on the most important claim types.

**Asbestos:** Industry-wide analysis published by the institute of Actuaries<sup>2</sup> regarding asbestos-related claims in the UK suggests that the number of claims reported annually has reduced in the most recent five or more years both for mesothelioma and for other asbestos-related diseases and the market data suggests steadily increasing levels of average cost on settled claims. These observations are consistent with the trends seen for MMI and declines in numbers of notified cases suggest that the peak of reporting of claims has passed, which is reflected in the projections of future claims. There are significant uncertainties remaining, especially in relation to the average claims costs, which could be impacted by the introduction of more expensive treatments such as immunotherapy.



**Abuse:** The projected number of future reported abuse cases in MMI's mid-point scenario has reduced by almost 40% in the past three years, which reflects the reduced notifications in recent years. However, there remains significant uncertainty associated with claims of this nature and further instances of wide spread abuse may surface in the future, which could potentially result in a significant number of cases being reported. Three additional areas of concern with respect to abuse claims are:

1. The 2017 *Armes vs Nottinghamshire County Council* judgment<sup>3</sup> at the Supreme Court extended the doctrine of vicarious liability on the part of local authorities with respect to actions of foster parents. This means that even in the absence of clear fault on behalf of the authority they may still be liable for compensation to victims. It appears that the original policy wording obligates MMI to provide cover for this instance of vicarious liability. This has the potential to result in an increase in claims for local authorities, though as yet this doesn't appear evident in MMI's reported case numbers.

<sup>2</sup><https://www.actuaries.org.uk/practice-areas/general-insurance/research-working-parties/uk-asbestos>

<sup>3</sup><http://www.publicfinance.co.uk/news/2017/10/supreme-court-nottinghamshire-council-liaable-foster-care-abuse>



2. The Independent Inquiry into Child Sexual Abuse (IICSA) presented its Interim Report<sup>4</sup> in April 2018. This report recommended that a register of public liability insurers could be introduced to assist claimants and it is most likely that MMI would appear on that register as a core participant in IICSA. Following the publishing of additional reports in 2021, a final report should be expected on the inquiry in 2022. Depending on the nature of any recommendations, as well as media attention, this may impact the propensity of claimants to come forward in the future.
3. In Scotland, the Limitation (Childhood Abuse) Act 2017<sup>5</sup> has removed the three-year time bar as a defence for personal injuries resulting from childhood abuse after 1964. There is as yet no clear evidence of heightened claims reporting as a result but this may change. In addition, the Scottish government has backed plans to have a scheme to allow survivors the opportunity to apply for financial redress.<sup>6</sup> The impact of this on claims to MMI is at this stage unclear.

It is likely that MMI's actuarial advisors have attempted to allow for these developments in their Incurred But Not Reported (IBNR) estimates and hence they have not underestimated forecasts given the current level of knowledge and the uncertainties involved.

## Gallagher recommendations

**Immediate claims payments:** In view of the current claims management process under the scheme, the members of the scheme are advised to review their reserving policy to continue to ensure adequate funds are available to pay claims from their own funds. There remains a potential delay between those claims paid in full by the member and the time taken to receive reimbursement of the 75% from MMI in respect of those settled claims.

**Reserving for clawback:** Based on the latest report and accounts of MMI and the authority's own individual statement as at March 2022, we would recommend that all our clients reserve for an additional 10% levy going forward to reflect the long-term uncertainties (both on the asset and liability side of the balance sheet).

This 10% additional levy appears to be broadly consistent with the high forecast sensitivity presented in the 2021 report and encapsulates higher than expected assumptions on average costs, future claims inflation and numbers of future cases than those underlying the mid-case scenario used in the accounts.

<sup>4</sup><https://iicsa.org.uk/reports>

<sup>5</sup><https://www.weightmans.com/insights/scottish-historic-child-abuse-claims/>

<sup>6</sup><https://www.gov.scot/news/redress-for-survivors/>



We have lowered our view in recent years, reflecting the increased stability of estimations. This means that we advise authorities to reserve for a total 35% levy at present. Given that it is now highly unlikely that the levy will exceed 50%, we do not foresee that central government will intervene with financial support in the future.

The accounts do not indicate a probability of an outcome exceeding this high forecast scenario, so we are not able to judge the chance of the levy ultimately exceeding 35%.

MMI estimates that it will take around 10 years before half of the projected outstanding claims and IBNR are paid. Each authority should continue to review their own individual liability to MMI as the total claims are of course dependent upon the authorities own historic experience. Please note that our suggested 10% additional levy is not an actuarial projection of the ultimate claims liability using full actuarial techniques and methods, but instead based on MMI actuaries' high forecast using cautious assumptions. It does not therefore constitute an independent actuarial opinion of the ultimate liability of MMI based on the same data set used and seen by the actuaries commissioned by the scheme administrators.

## How can Gallagher help?

Gallagher has a long history of supporting the public sector. In recent years, our actuarial services have been called upon by many organisations to help better understand their exposure to past liabilities under the MMI scheme of arrangements.

Unbudgeted calls on your finances are becoming increasingly burdensome and current indicators show that recovery from the pandemic is likely to increase pressure on the public sector's financial position.

Additional service which may be of interest to you are:

- Claims audits — are reserves correct and being managed effectively?
- Third party claims handlers audits — are your contractors managing the claims process with best value in mind?  
Can you be certain the public purse is being protected at all times?
- Actuarial insurance programme optimisation reviews — is your insurance programme fit for purpose or is it still designed to protect the risks you had 10 years ago?

## Would you like to talk?

If you would like to discuss how we can help you manage legacy risk or drive efficiency into your insurance and risk financing programmes, please contact the Gallagher Public Sector team.

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