

**NORTH YORKSHIRE COUNTY COUNCIL**  
**CORPORATE & PARTNERSHIPS OVERVIEW & SCRUTINY COMMITTEE**

**2 March 2020**

**INSURANCE CLAIMS ANALYSIS REPORT**

**Report of the Corporate Director – Strategic Resources**

**1.0 PURPOSE OF THE REPORT**

1.1 To provide

- (a) an overview of the Motor and Liability insurance claims experience over recent years, and
- (b) analyse the pattern and costs of Public Liability claims over the last 5 years, particularly for Business and Environmental Services.

**2.0 BACKGROUND**

2.1 The insurances arranged for the County Council includes cover for accidents and incidents involving employees, third parties and property including vehicles. This report concentrates on Motor and Liability claims as there is the potential for higher costs in these areas. **Paragraph 4** onwards below provide an analysis of Motor and Liability (showing Employers' Liability and Public Liability) insurance claims, with an in depth analysis of Business and Environmental Services (BES) claims. This detail has been provided because this is where the higher numbers and values of claims arise.

**3.0 INSURANCE CLAIMS ANALYSIS**

3.1 The following paragraphs explain the position for Motor and Liability insurance claims as at 31 December 2019. The Liability insurance claims are further broken down into Employers' Liability and Public Liability claims.

3.2 The insurance year runs from 1 October to 30 September. When a Liability or Motor claim is received, it is recorded against the insurance year in which the incident occurred. Thus a claim which occurred on 30 November 2017, but not reported to the County Council until 1 January 2019, would be recorded against the 2017/18 insurance year.

3.3 Due to the Limitation Act, claims for injuries can be submitted up to 3 years after the incident or when the claimant becomes aware of the injury. For property claims this is extended to 6 years.

#### 4.0 GENERAL MOTOR CLAIMS EXPERIENCE

- 4.1 Motor insurance covers any motor vehicle, whilst deployed on the business of the County Council and for social, domestic and pleasure purposes by authorised persons. The cover is comprehensive which includes loss of or damage to the vehicle and legal liability to third parties for death, bodily injury or damage to property due to an accident involving a vehicle or trailer.
- 4.2 A summary of the motor claims experience for each Directorate over the last three years is included in **Appendix A**. Motor claim figures are provided over three years only as the claims are normally settled within a short time frame.
- 4.3 The number of Commercial Motor Fleet claims per insurance year has remained relatively steady over the last 3 years. There has been a corresponding effect on costs other than in 2016/17 insurance year, when two claims involving injured third party passengers and two non-suspicious fires increased costs for that year.
- 4.4 A point to note in relation to motor claims is that the majority of vehicles are now sourced by the NYCC Fleet department. As a result, the claims experience for those vehicles now sits within BES - IPT but the use of the vehicles which includes Highway vans, school minibuses and pool cars is across all Directorates.
- 4.5 The remainder of the claims involve keyworker vehicles, mainly in Health & Adult Services, where most of these vehicles are allocated. The number and value of keyworker vehicle claims per insurance year has remained steady over the last three years

#### 5.0 LIABILITY CLAIMS EXPERIENCE

- 5.1 A summary of the liability claims experience for each Directorate over the last five years is included in **Appendix B**. The 2018/19 year is still immature and will most likely increase as some claims have not yet been submitted.

#### 6.0 EMPLOYERS LIABILITY

- 6.1 Employers Liability insurance provides cover for claims made against the County Council for injury to an employee, which the claimant believes has been caused due to the negligence of the County Council.
- 6.2 The number of Employers Liability claims per insurance year is lower in comparison to Public Liability claims. However, the value per Employers Liability claim can be much higher as all Employers Liability claims involve injury whilst the majority of Public Liability claims within North Yorkshire involve property damage such as pothole damage to vehicles (**see paragraph 8.5**).
- 6.3 For Business and Environmental Services, Health and Adult Services and Central Services, the number and value of Employers Liability claims fluctuate. For Business and Environmental Services there is no common or consistent cause of incident. For Health and Adult Services and Central Services, the most

common causes with the highest value of claims are “Slip, Trip, Fall” and “Lifting, Handling and Carrying”.

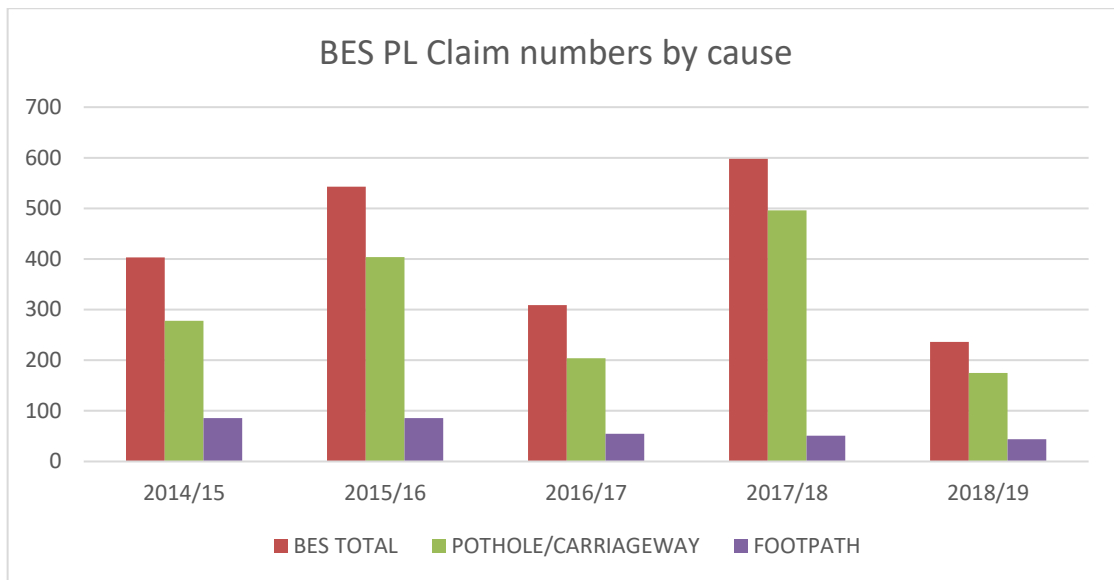
- 6.4 Children and Young People’s Service including Children’s Social Care has the highest number and value of Employers Liability claims with the most common causes of claims being “Slip, Trip and Fall”; “Lifting, Handling and Carrying” and “Damage/Injury Caused by Pupil”. Although higher value claims include the causes of “Hit by Moving Object”, Assault” and “Stress”. Some of the incidents in more recent years involve injuries caused by pupils to members of staff. A claim would usually be brought against the employer in these circumstances, rather than the child.

## 7.0 PUBLIC LIABILITY

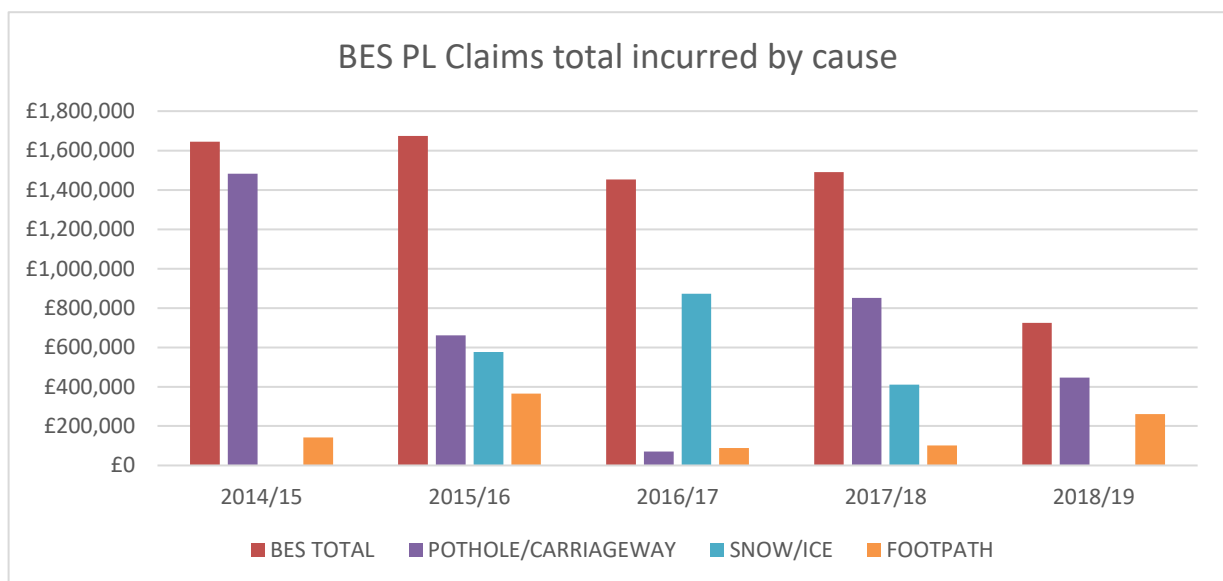
- 7.1 Public Liability insurance provides cover for claims made against the County Council for injury or damage to a member of the public and/or damage to their property, which the claimant believes has been caused due to the negligence of the County Council.
- 7.2 A summary of the claims experience as at 31<sup>st</sup> December 2019, for the last 5 years for each Directorate is attached at **Appendix B**
- 7.3 The Public Liability figures for Central Services remain relatively low, as would be expected from the activities of this Directorate.
- 7.4 Health and Adult Services Public Liability claims tend to be low in number and relatively low in value, one incident was reported to insurers for notification but no claim has been received to date.
- 7.5 The figures for the Children and Young People’s Service are difficult to predict as the 3 and 6 year rule (as mentioned in **paragraph 3.3** above) does not start until a child reaches 18 years old, so the figures may still undergo some change. Presently the number and value of claims are relatively stable with an annual average of 12 claims and an average annual cost of £157,000
- 7.6 The figures for Business and Environmental Services remain the highest for the County Council and are therefore analysed further in **paragraph 8** below.

## 8.0 Business and Environmental Services (BES)

- 8.1 For BES, the overall average for the period 20014/15 to 2018/19 is 418 Public Liability claims per insurance year, and a total value of paid and outstanding of approximately £1,397k on average per year. This is a decrease in the number of claims previously advised, and significant decrease in annual average incurred figures which includes outstanding reserves.
- 8.2 The most common causes of the claims are due to “Pothole”, “Footpath” and “Carriageway”, which apart from “Footpath” relates to the surface condition of the highway. The diagram below illustrates the number of claims relating to each cause and the total.



8.3 The following diagram shows that Public Liability claims costs are relatively steady. However, many of these costs are estimated figures as investigations/negotiations are ongoing for these outstanding claims. A clearer position will not be available for these years until these claims are settled.



8.4 Footpath claims have been relatively steady in number although they remain costlier as they usually relate to personal injury, and the majority of carriageway claims relate to vehicle damage rather than injury. Over the last five years there has been an increase in the number of claims for personal injury particularly from cyclists on the carriageway. The nature of the injuries can be serious and this is reflected in the values attached to those claims. These types of claim account for the majority of outstanding reserves and whilst claims are robustly defended wherever possible the Council has to pay for legal defence costs which, since 2013 are no longer recoverable from the third party, even if the claim is successfully defended or withdrawn. We have included Snow/Ice data in the diagram in paragraph 8.3 to illustrate costs related to this cause although presently these are mainly outstanding reserves on cases where a defence is being maintained.

### Potholes/Carriageway Incidents

- 8.5 As a result of the weather conditions there has been a fluctuation in the number of claims received from the public in as a result of the formation of potholes and deterioration in the condition of roads around the County. This was particularly high in 2017/18 but has then decreased markedly in 2018/19. The claims mainly involved the cost of repairs to damaged tyres and wheels although there were some personal injury incidents. The approximate number of pothole/carriageway claims received in the Insurance and Risk Management Service for the following years was as follows:

	Total BES Public Liability Claims	Pothole/ Carriageway claims
2014/15	403	278
2015/16	543	404
2016/17	309	204
2017/18	598	496
2018/19	236	175

### Repudiation of BES Claims

- 8.6 In order to mitigate against claims being made against the County Council, risk management measures are put in place to enable the County Council to learn from the claims made in order to try to prevent them in the future and to put measures in place to better defend these claims.
- 8.7 The diagram in **paragraph 8.10** shows the number of claims that have been closed for each insurance year and of those closed, the number and percentage of closed claims that have been settled with a nil payment. It is noticeable that over the 5 year period this percentage has improved.
- 8.8 It was recognised that this was not an accurate measure of whether claims had been successfully defended; as some claims will have been successfully defended but payments will have been made in respect of the Council's solicitors fees, whilst other claims may simply have been withdrawn.
- 8.9 In the light of this, the following information has also been recorded for each closed claim:
- Conceded/lost - liability is admitted and the claim settled on the best terms
  - Successfully defended - the claimant has chosen to withdraw the claim following repudiation or it has been successfully defended at court
- 8.10 It can be seen from the diagram below that the largest percentages relate to claims submitted to the County Council but successfully defended and a commensurate reduction in the percentage of claims conceded or lost. Insurance year 2018/19 is still immature, but the position will continue to be monitored.

BES CLOSED CLAIMS EXPERIENCE AS AT 31 <sup>st</sup> DECEMBER 2019										
Insurance year	2014/15		2015/16		2016/17		2017/18		2018/19	
	No.	%	No.	%	No.	%	No.	%	No.	%
<b>Number of closed claims</b>	399	99%	516	96%	287	94%	554	93%	123	52%
<b>Successfully defended</b>	314	79%	428	83%	247	86%	459	83%	102	83%
<b>Number of closed claims settled at Nil</b>	301	75%	423	83%	244	86%	452	82%	100	81%
<b>Conceded/Lost</b>	85	21%	88	17%	40	14%	95	17%	21	17%

8.11 The current repudiation rate for all BES claims including pothole/road surface claims is approximately 83% for each insurance year for the period 2014/15 to 2018/19.

### **Risk Management**

8.12 The defence of these claims has been supported over time by the following actions taken by officers in Business and Environmental Services:

- providing detailed information to the public on the County Council Website and through the Insurance and Risk Management Service to ensure that the claimant understands the circumstances and information required to make a valid potential claim.
- updating of Highways Safety Manual to reflect the “*Well maintained Highways – Code of Practice*” to assist with proactive risk based measures either in preventing accidents or in the defence of claims
- robust but fair defence of any claim where it is thought that NYCC are not liable
- keeping within the timescales of the new Civil Procedure Rules where appropriate in order to reduce claimant’s solicitor’s costs.
- improving recording and retention of records that are used to defend claims
- a willingness to provide witness statements and attend court to defend claims
- training, for example a mock trial for Highways staff by insurance and legal providers to ensure awareness of the legal process and support to their involvement.
- e-learning package for Driving at Work available on the intranet
- the NYCC fleet department has now rolled out the fitting of tracker equipment across their fleet. As well as being a useful fleet management tool, the data collected can also be used to assist in claims investigations.

- Dashcams are now fitted to most vehicles including buses and this has proved extremely useful when considering liability for accidents.
- an analysis of claims that have to be conceded to see how preventative systems can be improved in the future.

## 9.0 CONCLUSIONS

9.1 General public awareness that a claim can be made for damage or injury, which is believed to be due to the negligence of another party continues to be high. In addition the economic climate means that the likelihood of claims being made (in particular fraudulent claims) will continue. Therefore it is not surprising that the number of claims submitted to the County Council is unlikely to decrease.

In 2017 the County Council successfully sued a claimant following a finding of fundamental dishonesty for a personal injury claim and recovered almost £10,000 in costs from that person. This was widely publicised to deter other fraudulent claims. Work continues in this area.

9.2 However, it is important to recognise that without –

- the measures put in place to prevent incidents occurring in the first place
- putting in place measures and records to defend claims when they do occur
- learning from claims where the County Council is found negligent

the number and costs of Public Liability claims against the County Council would be much higher.

## 10.0 RECOMMENDATIONS

10.1 The Committee are recommended to:

- (i) consider the information provided in relation to insurance claims and determine if any further actions are required.
- (ii) consider that in future this report is presented every 2 years.

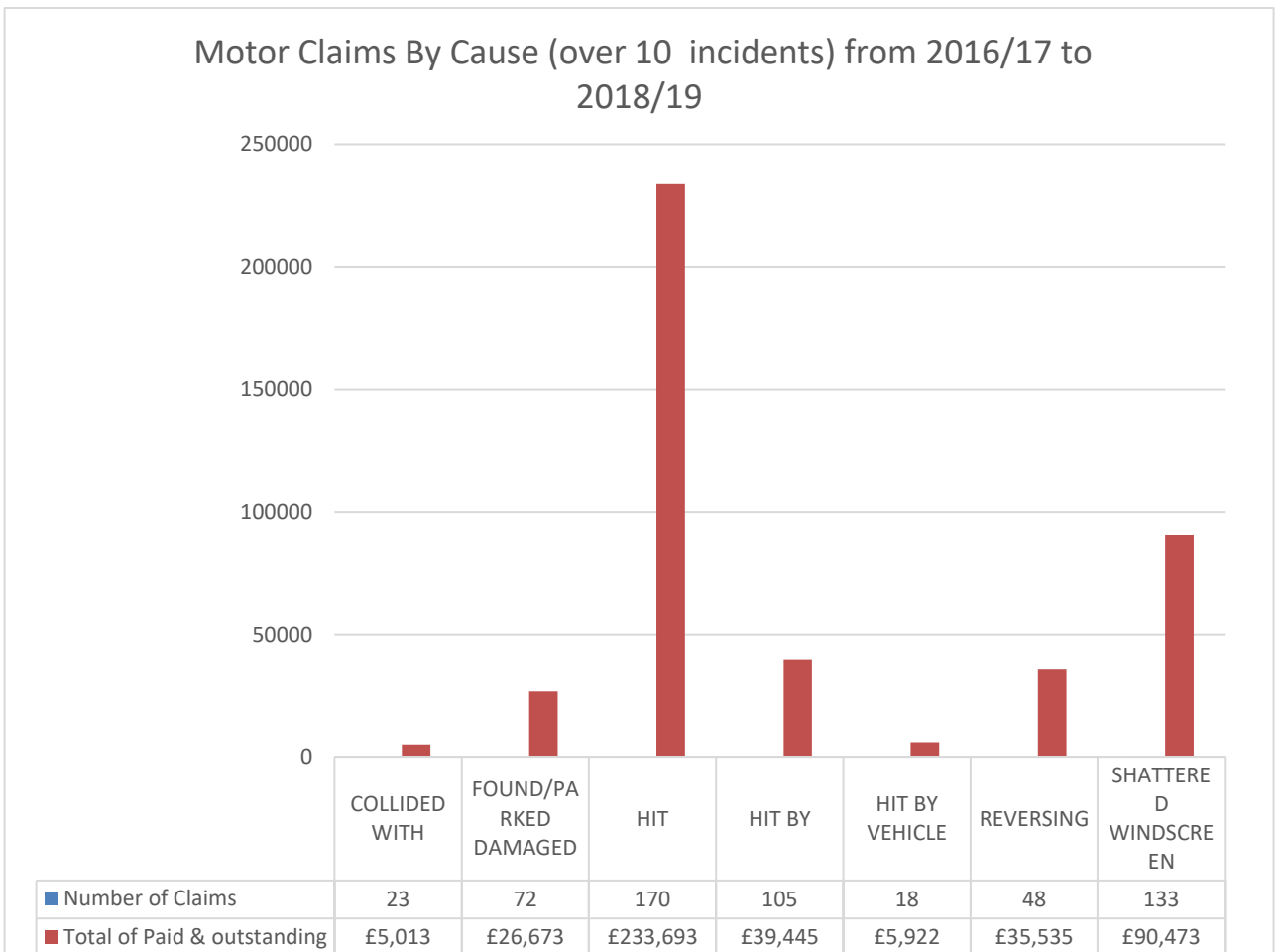
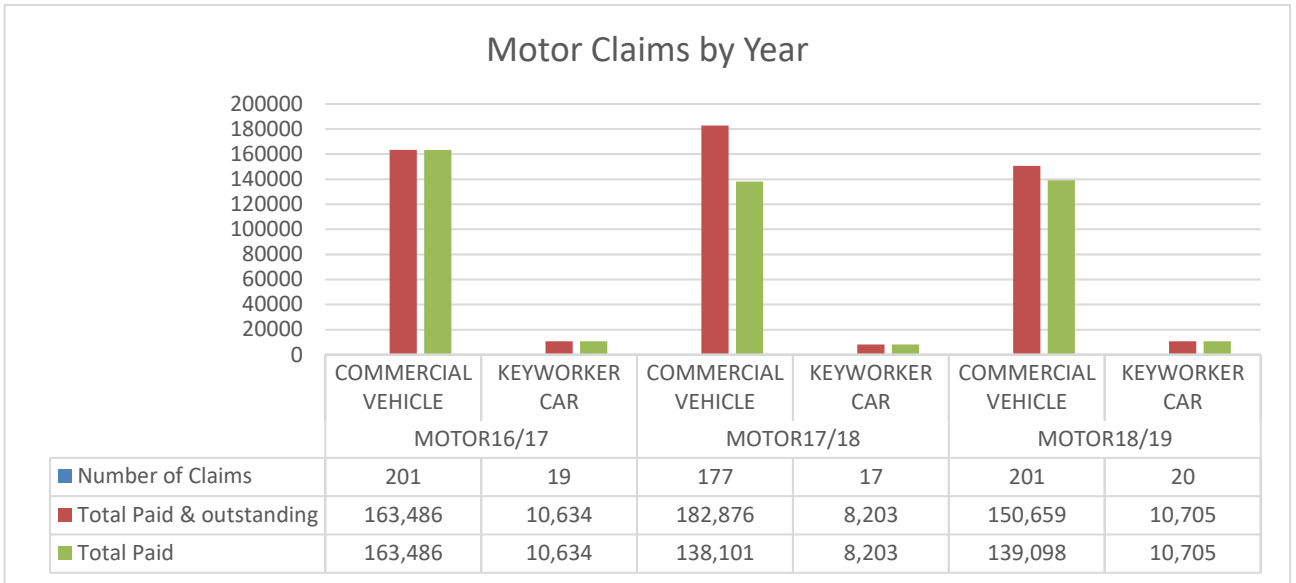
**GARY FIELDING**  
**Corporate Director – Strategic Resources**

County Hall, Northallerton  
 March 2020

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**Background papers:** None

**APPENDIX A**





Appendix B

Liability Claims Occurring Per Insurance Policy Years Between 1st October 2014 to 30th September 2019 as at 31 December 2019

