

NORTH LINCOLNSHIRE COUNCIL

AUDIT COMMITTEE

RISK MANAGEMENT PROGRESS REPORT

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform Members of key issues arising from risk management work.
- 1.2 Regular reporting on risk management issues is an important source of assurance for Members to fulfil their role and provides supporting evidence for the annual approval of the Governance Statement.

2. BACKGROUND INFORMATION

- 2.1 The outcome from the review of strategic risk controls was reported to Members in September. Following this review all the strategic risks have been populated in the 4Risk system. This will provide improved management information and automate reminders of risk control improvement actions due dates.
- 2.2 The 4Risk risk management system has been reconfigured following the council restructure. A corporate review of all operational risk registers has also taken place. Matters arising have been forwarded to the risk owners concerned.
- 2.3 In addition to information available on the web page and intralinc the 12th edition of the Risk Roundup newsletter was also issued in November (appendix A).
- 2.4 The membership of the Risk Management Group (RMG) has been evaluated and confirmed. One of the roles of RMG is to ensure that significant risks are adequately managed in service areas. Service managers are asked to provide the Group with an update on how key risks are being managed. In recent months the group received presentations on the management of risks associated with the Adults Service Developments and Health & Safety responsibilities. In addition to the latter an internal audit review on Health & Safety arrangements has been conducted. The report is currently with the service managers for consideration.

- 2.5 Risk management work is progressing in a number of areas. In particular:
- Establishing a model to help define the council's Risk Appetite.
 - Working with the VFM and Performance Team to improve the integration of risk and performance measures.
 - Working with People Directorate to embed Risk Management and Emergency Planning in schools.
 - Producing guidance to support Strategic Risk Lead Officers in their role on behalf of the council.
- 2.6 Inadequate response to key legislation is a significant risk to the council. A follow up audit of the council's response to the provisions of the Bribery Act has recently been completed and is reported in the counter fraud report. The audit showed that all relevant policies and procedures had been updated and awareness training had been provided across the council.
- 2.7 The transfer of Public Health responsibilities to local authorities from 1st April 2013 presents new risks to the council. The Public Health Transition Steering Group is responsible for overseeing management of these risks during the transfer. At the last meeting on 19th December a Governance Workstream Group was established to ensure risks are adequately managed and to update the Transition Steering Group.
- 2.8 In September Members were informed of the results from the CIPFA/ALARM benchmarking club. In addition the risk management service has been evaluated as providing VFM to the council.

3 OPTIONS FOR CONSIDERATION

- 3.1 The Committee should consider whether or not this update provides sufficient assurance on the adequacy of risk management arrangements detailed in this report. The Committee should ask questions about the contents of the report and seek clarification as necessary.

4. ANALYSIS OF OPTIONS

- 4.1 The progress report is designed to provide this Committee with the assurance required to fulfil its role effectively. Members should ask sufficient questions to ensure adequate assurance is provided.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Resources are met from the Audit and Risk Management budget.
- 5.2 Regular reviews of risk management arrangements should safeguard the council's assets and ensure that value for money is achieved in the

use of resources. There are no specific staffing, property or IT implications.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 – CRIME AND DISORDER, RISK AND OTHER)

6.1 The Chief Financial Officer has a statutory duty under the provisions of the Local Government Act 1972 to ensure the proper administration of the council's financial affairs. The council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

6.2 The evaluation of the council's arrangements will help to promote good corporate governance. Risk management work, as a component of the council's internal control framework is a key source of assurance to support the Annual Governance Statement. The risk management framework addresses all key risks the council may face. It promotes appropriate action to manage risks to an appropriate level.

7. OUTCOMES OF CONSULTATION

7.1 The Risk Management Group is made up of representatives from all services and therefore risk management outcomes are the result of a comprehensive consultation process.

8. RECOMMENDATION

8.1 The Audit Committee should consider the assurance provided by the Risk Management progress report on the adequacy of risk management arrangements detailed.

DIRECTOR OF POLICY AND RESOURCES

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB

Author: Carol Andrews/ Caroline Wilson

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Background Papers used in the preparation of this report
Risk Management Strategy and Action Plan 2012-2013

RISK

roundup

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A quarterly digest of risk management issues



Pupil data - p2

Attack from cyberspace

“Cybercrime is big business, it is growing and it is increasingly targeting public services.”

Online crime is soaring and it is increasingly targeting the public sector. This is a major concern as more public bodies share vital services and IT.

The ICT security company Symantec recently reported that it blocked more than 5.5 billion malicious cyber attacks in 2011; an increase of 81% over the previous year. Cybercrime affects us all. It can undermine our trust in individual organisations, prevent us from doing business online and create barriers to sharing information.

It threatens the intellectual property that underpins future prosperity as well as the integrity and confidentiality of the sensitive information that is the lifeblood of modern government and commerce.

Symantec estimates that worldwide more than 232.4 million identities were ‘exposed’ in 2011 through data breaches, either via deliberate attacks or negligence. The deliberate attacks primarily targeted customer-related information for fraudulent purposes. The firm estimates that 42% of these data breaches were in health care, 14% in government and 13% in education. Cybercrime is big business, it is growing and it is

increasingly targeting public services. As individuals and organisations, we need to be aware of the risks and take responsibility for protecting ourselves.

There was a time when lone individuals hacked into systems or launched attacks on networks for fun, for the challenge or to prove their expertise. Now, as Britain’s National Security Strategy makes clear, cybercrime ranks alongside terrorism as one of the four main security challenges facing the UK.

The government has signalled its commitment to combating cybercrime by allocating £650m in the Strategic Defence and Security Review to enable threats to be better identified, understood and mitigated. However, ministers also need to think about how cyber security relates to broader policies. The internet has developed from a communication network to what has been termed the ‘internet of things’ – where it connects our traffic management systems, the buildings we work in, bank cash machines, and much more.

This creates the potential to attack a country’s critical

infrastructure as well as its information resources, as we have seen with the Stuxnet Worm. This infected industrial facilities in Iran and is widely believed to have been designed to slow down the country’s nuclear development by targeting the software in key devices. In theory, it is just as possible to disable energy supplies, hospitals and airports, even nuclear submarines and aircraft carriers.

With many public sector bodies sharing services and ICT infrastructure and applications are they making themselves high profile targets? The backbones of large networks and data centres could easily become the focal points for cyber security attacks with the aim of disrupting services or stealing valuable data.

The council has a number of controls in place to mitigate this risk. These include:

- Firewalls
- IDS (Intrusion Detection System)
- Anti-virus and anti-malware products
- Penetration tests are regularly carried out by an external security organisation

Report offers schools data protection advice

A report has been released by the Information Commissioner's Office (ICO) and aims to help schools ensure they are handling pupil personal data information in line with the law. It gives practical advice on how to comply with the Data Protection Act.

It was prompted by a survey of 400 schools across nine local authority areas that showed that whilst awareness of data protection laws was generally good, schools need to pay more attention to complying with data protection law.

The survey showed 95% of schools provided some information to pupils and parents about what was done with personal information. A

third of schools with password protected computer systems conceded the passwords were not strong enough and not changed regularly, with 20% admitting email systems were not secure.

These are ICO's top tips to schools on complying with the Data Protection Act:

- **Notify.** Not a top tip so much as a legal requirement. Schools handle personal data, and are obliged to notify the ICO of what they are doing with it.
- **Be fair.** A key principle of the Data Protection Act is that individuals should know what organisations are doing with their personal information, known as 'fair processing'.

This includes letting parents and pupils know why and where CCTV is being used, and taking care not to disclose personal information like photos online without consent.

- **Keep it secure.** It is essential that schools keep information secure. This means storage, secure usage, secure sharing and secure disposal. If parts of a school's website are for staff or parents only, make sure there's proper password security in place and they can only access what they're entitled to.
- **Prepare.** Spend some time ensuring the school has clear and practical policies. Ensure that staff are trained and monitor whether the policy is being followed.

Power shortage risks by 2015



Britain risks running out of energy generating capacity in the winter of 2015-16, according to the energy regulator Ofgem. Its report predicted that the amount of spare capacity

could fall from 14% now to 4% in three years. Ofgem said this would leave Britain relying more on imported gas, which would make price rises more likely.

Whiplash claim fraud increases insurance premiums

Fraudulent whiplash claims contributed to a 2% rise in motor insurance fraud last year, according to the Association of British Insurers' latest report on insurance fraud. The report identifies that in 2011, 7% of all motor insurance claims were fraudulent compared to 5% in 2010.

The insurers Zurich Municipal publish important insurance articles for councils to consider important risk management messages. A sample of these claims reports are detailed on the next few pages.

Items not damaged by council

TRADING STANDARDS – CONFISCATION OF GOODS

Dixon v Bromsgrove District Council – 24.04.12, Worcester County Court

“Confiscation and investigation were necessary, had not been carried out vindictively and the claimant had not been persecuted.”

In November 2009 the claimant, C, was arrested by police and several items were seized and retained by the police pending an investigation by the Trading Standards Officer for Worcestershire County Council, O. The items comprised approximately 100 watches, a laptop computer, brochures and price tags. C’s arrest arose after he attempted to sell a watch to an off duty policeman.

The Council’s investigation related to potential offences concerning trademarks, fraud, consumer protection and unfair trading.

Eleven months later C was issued with a formal warning for relevant offences. The watches and laptop were returned to him but he was advised the brochures and price tags would not be.

C claimed O had abused her position and that the items confiscated had been damaged, causing him financial loss. D denied C’s

allegations, saying the confiscation and investigation were necessary. The court held O had conducted her investigations as quickly as possible.

The court rejected the allegation that the items were damaged while in O’s custody. The claim was dismissed.

This is an interesting ruling supporting a council’s Trading Standards Office investigating the suspected fraudulent trading of watches being passed off as high quality makes. The subsequent investigation took almost a year but the court held the confiscation and investigation were necessary, had not been carried out vindictively and the claimant had not been persecuted.

Council not liable for staff injury

LANDFILL SITES – WORK AT HEIGHT REGULATIONS

Potter v Torbay Council, 24.04.12, Torquay and Newton Abbot County Court

The claimant, C, was employed by the defendant, D, as manager of a recycling and landfill site. When attending the site, C was told by the site operator, O, that his equipment had been vandalised again.

Thick hedging fenced the perimeter of the site. It was known to C, O and D that the site could be accessed through a small gap in a wooded area in the perimeter. O told C he believed vandals had entered through this gap. C went to investigate. He had not previously entered the site through this gap. As he made his way through he fell down a steep bank, sustaining a severe head injury.

C sought damages from D, alleging his injuries were caused by D’s negligence and breach of the Work at Height regulations 2005 (the regulations).

D denied liability, arguing there was no need for C to enter the wooded area. He had not been

instructed to go in and D had no knowledge he would, particularly that he would go so far into it. The bank down which C fell was a danger that should have been obvious to C as manager of the site. D denied the regulations applied.

The judge held the regulations did not apply – it would unreasonably strain their intention to hold that they did.

The judge held it was obvious there was no perimeter fence and there was no need for C to advance so deep into the wooded area. C accepted the presence of the bank was obvious to him but he proceeded nonetheless.

C should have reported to his superiors that trespassers were entering the site through this gap. Proper arrangements could then have been made to deal with the problem. The accident was caused by C’s fault and the claim was dismissed.

Once again a claimant sustained a severe injury through his own foolhardiness, seeking to blame his employer for the obvious risk he chose to take. We frequently see claims by highly experienced, properly trained employees undertaking tasks that are, or reasonably should be, known by the employee to be dangerous and/or beyond the scope of their remit. Such cases highlight the importance of employers being able to produce evidence demonstrating the employee acted contrary to training and instructions, and that the employer could not have known the employee would act as he did.

Stair slip claim succeeded

RESIDENTIAL PREMISES – COMMUNAL STEPS – LIGHTING

Johnson v Colchester Borough Council, 07.02.12, Colchester County Court

The claimant, J, resided in a residential block of flats owned by the defendant, D.

While carrying her baby in a car seat, J climbed the communal stairs to her flat but slipped and fell backwards, injuring her wrist.

J claimed damages from D for her injury, alleging negligence and breach of duty under the Occupiers' Liability Act 1957. She alleged the communal floors, landings and stairs were wet because windows could not be closed, due to defects. J also alleged D failed to ensure the stairs were free from water, failed to operate an adequate cleaning system and that the lighting was inadequate. D denied liability.

The judge held D had no duty to carry out weekly lighting inspections rather than the reactive system of repairing on receiving complaints, but D's inspections were inadequate as they took place during daylight hours, when lights would not have been switched on.

D intended to repair the lights within 24 hours of the repair request, but evidence emerged that they only did so 48 hours from receiving it. The judge held 24 hours would have been reasonable but a 48 hour

delay was not. The judge accepted the wet stairs and lack of lighting caused the accident, but rejected J's allegations of defective windows as there was insufficient evidence to demonstrate the rain had been blown in through the windows, rather than brought in under foot by residents and visitors.

The claim succeeded. Damages were later settled with J accepting £8,000. J's costs were agreed at £30,000.

This judgment highlights the importance of social landlords identifying repairs requiring urgent attention, and attending to them. It also emphasises the need to ensure evidence supporting the defence has been accurately established and is verifiable early on, to avoid late and potentially prejudicial changes.

School not liable for pupil injury

SCHOOLS – SUPERVISION OF SPORTING ACTIVITIES – ACCIDENT – GOLF

Hammersley-Gonsalves (a child by his litigation friend T Gonsalves) v Redcar & Cleveland Borough Council, 13.07.12, Court of Appeal

The claimant, C, was attending a golf lesson at school. He was aged 12 at the time. The defendant, D, was responsible for the school. The class consisted of 22 boys. Their first six golf lessons had taken place indoors. The seventh was to take place in the school grounds where a course had been organised by the teacher. The boys, each carrying a club and ball, were told to walk in single file to the course and not to strike anything until instructed. On reaching the field one boy, B, swung his club at his ball, striking C in his face.

C sustained facial injuries for which he claimed damages from D, alleging negligence through the lesson being inadequately supervised.

T said he had followed the group from the back of the line of boys and did not see B put down his ball or swing his club.

The trial judge held D liable, ruling the group had been inadequately supervised due to the

negligence of D.

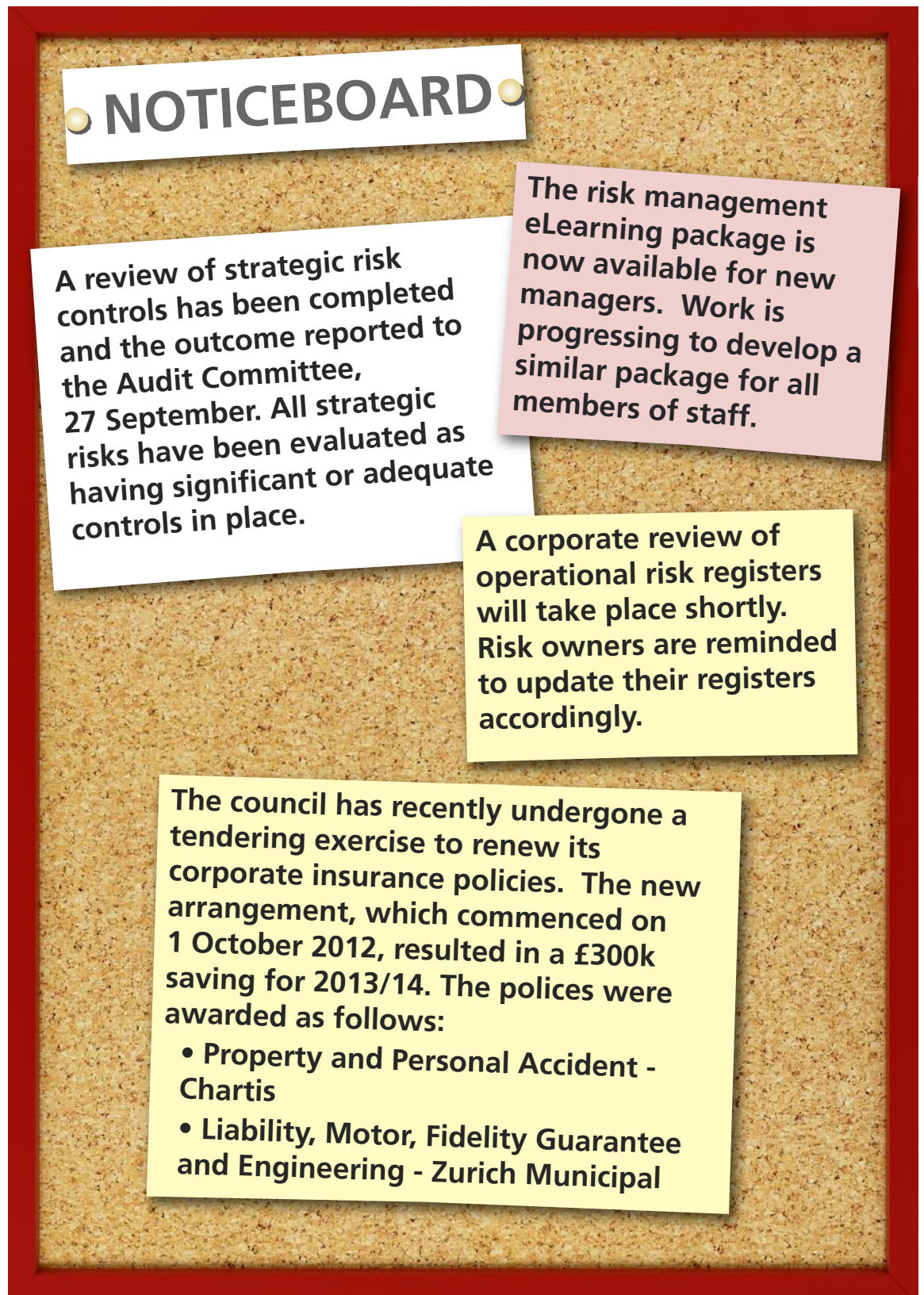
D appealed. The Court of Appeal held T could not have been expected constantly to observe what each of the 22 pupils was doing, either when they were walking in a long line in front of him or at all. T had given them instructions about the use of their clubs. There was no history of bad behaviour among the pupils. B's action had been wholly unexpected.

C's allegations had not included one of inadequate staffing ratio. Nonetheless, the Court held there was no need for more teachers to supervise the lesson, given the age of the pupils and the nature of the activity.

The Court further held that even if T had negligently failed to observe B, that failure did not cause C's injuries because the trial judge had not found that any action T could have taken would, on balance, have prevented the accident. The appeal was allowed.

The Court of Appeal considered the question of staff to pupil ratio despite the matter not being pleaded by the claimant as an allegation of negligence. There was no need for more than one teacher to supervise a well-behaved group of 22 boys, including the 12-year old claimant, attending their seventh golf lesson; there had not been any finding that greater supervision could have prevented one of the boys unexpectedly swinging his golf club and injuring the claimant. It should be noted that this ruling was made on the particular circumstances of the incident.

“There was no need for more than one teacher to supervise a well-behaved group of 22 boys.”



The council gratefully acknowledges the contribution made by its insurers, Zurich Municipal, in providing articles for this publication.

While every effort has been made to ensure the accuracy of these reports, this publication is intended as a general overview and is not intended, and should not be used, as a substitute for taking legal advice in any specific situation. Neither Zurich Municipal, nor any member of the Zurich group of companies, will accept any responsibility for any actions taken or not taken on the basis of this publication.

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