

NORTH LINCOLNSHIRE COUNCIL

AUDIT SUB-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 A key task completed recently was to review and update the council's Strategic Risk Register. Members are reminded that strategic risks are defined as 'those risks, which will significantly impair the achievement of the council's principal aims and objectives, core service delivery and overall probity'.
- 2.2 Risks have been reviewed using a number of sources:
 - Current service plans/ profiles; risk registers and audit work
 - Professional guidance available from CIPFA, ALARM and Zurich Municipal
 - Risk Management Group members provided a service perspective and challenge
 - Strategic risk registers from other local authorities (in particular those that received a high score in the Use of Resources assessment for internal control and risk management) were also used to cross check for obvious omissions or points of good practice
 - National conditions and local factors were also taken into account including economic and funding constraints as well as governance and stewardship responsibilities. Advice was also sought from the council's insurance brokers/ risk management advisers (Jardine Lloyd Thompson) to provide an industry perspective on the national picture
 - Council Management Team were consulted and their views incorporated.

- 2.3 The opportunity has also been taken to rationalise the number of strategic risks therefore the register has reduced from 21 to 12 risks. Lead responsibility for each of the risks was also assigned. The updated strategic risk register is shown in appendix A.
- 2.4 Several risks have been amalgamated. The summary of the changes made are shown in appendix B.
- a) One new risk has been added. Reputational risk has been identified as a distinct risk although it could be argued that damage to the council's reputation is a potential consequence of failing to adequately manage any strategic risk. This approach recognises the growing risk of reputational damage (in part through increased scrutiny by the media) which could undermine trust in local government and impose additional unforeseen working costs. A national study carried out by insurance and risk management experts - Zurich Municipal - show it is becoming one of the highest risks identified by Public Authority Chief Officers.
 - b) 'Failure to meet the changing needs of the community and individuals' risk description has been changed to provide more emphasis on the impact on vulnerable residents, less on civil disorder.
 - c) Risks have been arranged into 'internal' and 'external' groupings. This means a distinction has been made to recognise the impact on strategic risks as a result of the council's actions and those predominantly affected by outside influences.
- 2.5 Other work identified in the risk management action plan has been completed; this includes:
The new risk management system has now been operational for 5 months and has been welcomed by risk owners. The Group Auditor – Risk is providing support and working with risk owners to ensure all risk registers are updated. A central review of all operational risk registers is currently taking place.
- 2.6 An important aspect of the risk management action plan is to continue to raise awareness across the council. This is achieved through comprehensive training programmes and communication networks. Risk management awareness training was provided to risk owners in October 2011. The sessions were well attended and received. Furthermore work is in progress to develop a risk management eLearning package.
- 2.7 In addition to information available on the web page and Intralinc the 9th edition of the Risk Roundup newsletter was also issued in December (Appendix C). One of the roles of the Risk Management Group (RMG) is to ensure significant risks are adequately managed in service areas. The newsletter will now include articles explaining how these risks are managed.

- 2.8 The Pocket Booklet – Managing Risk was published in 2007. The Booklet, which explains the importance of risk management and outlines the types of risk and how the council manages them, was reviewed and issued in December. (Appendix D).

3 OPTIONS FOR CONSIDERATION

- 3.1 The Sub-Committee should consider whether or not:
- this update provides sufficient assurance on the adequacy of risk management arrangements, and;
 - the revised strategic risk register reflects the current risks the council faces.
- 3.2 The Sub-Committee may reject or wish to replace some of the strategic risks that have been identified or may seek further clarification or consider appropriate action about the contents of the report.

4. ANALYSIS OF OPTIONS

- 4.1 Collectively the Audit Sub-Committee is responsible for ensuring there are adequate arrangements for managing strategic risks. Professional guidance and commentary recognises the need to maintain strong risk management to avoid unexpected loss; costs or disruption to service delivery. This progress report updates Members on key internal control issues and complies with professional guidance available and is designed to provide this Sub-Committee with the assurance required.
- 4.2 The option set out in paragraph 3.2 indicates an opportunity missed to provide an important source of assurance to assist the Sub-Committee to fulfil its role effectively if adequate clarification is not provided.

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

- 5.1 Resources are met within existing budgets. There are no staffing, property or IT implications.
- 5.2 Sound risk management arrangements should help safeguard the council's assets and ensure that value for money is achieved in the use of resources.

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 is therefore risk management outcomes are the result of a comprehensive consultation process. Senior management perspective was sought and the Council Management Team's comments have been included in the revised Strategic Risk Register.

8. RECOMMENDATIONS

- 8.1 That the Audit Sub-Committee:
- approves the updated strategic risk register; and
 - notes the assurance provided by the Risk Management progress report on the adequacy of risk management arrangements detailed.

DIRECTOR OF FINANCE

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Background Papers used in the preparation of this report

Risk Management Strategy and Action Plan 2011-2012

Four perspectives; One complete picture (Tough choices; Different perspectives on long-term risks facing local government - Zurich Municipal

Strategic Risk Register 2011/2012

Risk	Risk Description / Features
Internal Risks	
<p>1. Failure to achieve council priorities that meet the needs of North Lincolnshire residents</p> <p>Lead : Chief Executive</p>	<p>Adoption of priorities that do not meet national or local needs Abrupt policy change resulting from changed political leadership nationally or locally Inadequate change programmes Poor change management arrangements Negative culture to change and risk adverse to innovation in service delivery</p> <ul style="list-style-type: none"> • Failure of decision making process • Poor data quality on which decisions have been made • Poor stakeholder engagement • Invest to save programmes do not provide efficiencies expected • MTFP pressures • Changes to service delivery presented by the Localism Act
<p>2. Significant service failure</p> <p>Lead: Chief Executive</p>	<p>Failure to adequately implement significant service changes e.g. social care personalisation, failure to safeguard adequately, raising educational standards</p> <ul style="list-style-type: none"> • Serious impact on human welfare • Environmental issues and significant costs • Adverse and/or increased inspection • Legal action • Costs • Loss of confidence • Unprofessional conduct by officers

<p>3. Inadequate workforce planning and management to meet current and future needs</p> <p>Lead: Director of Corporate & Community Services</p>	<p>Failure to recruit and retain an appropriately skilled workforce to meet service needs</p> <ul style="list-style-type: none"> • Present and future skills mix • Financial implications – HR policies • Loss of experience and expertise • Managing workforce contraction • Increased risk of fraud
<p>4. Serious breach of information integrity, confidentiality and availability and inaccurate data.</p> <p>Lead: Director of Corporate & Community Services</p>	<p>Significant failure or loss of ICT systems Loss or mishandling confidential and sensitive information Poor data quality Failure to safeguard the information assets of the council</p> <ul style="list-style-type: none"> • Significant fines by the Information Commissioner/ inspection • Withdrawal of Government Connect accreditation • Loss of confidence by stakeholders • Cost and waste of resources • Unprofessional conduct by officers • Failure to follow council procedures • Service delivery disruption • Increased risk of fraud
<p>5. Failure to maintain high standards of governance</p> <p>Lead: Director of Finance</p>	<p>Failure to conform with legislation, regulation or government policy and meet statutory duties Failure to conform with the council’s Constitution, Financial Regulations, CPRs, policies, codes and procedures Failure to demonstrate high standards of conduct and integrity expected of officers and members of the council. Inadequate governance and financial probity arrangements and monitoring Legislative and regulatory changes in a context of growing expectation for transparency etc. Failure to have robust contractual arrangements or partnership governance</p>

	<p>at a time of increased supply chain and partnership arrangements Failure to maintain robust and corporate financial management arrangements in order to achieve the MTFP Breakdown of prudent financial management including treasury risks resulting in failure to achieve the medium term financial plan</p> <ul style="list-style-type: none"> • Financial loss (litigation costs and fines) • Service disruption (contract failure or significant supply chain failure or failure of major partnership) • Fraudulent activity • Adverse inspection, reporting and potential intervention (Public Interest Reports) • Lack of transparency and scrutiny of actions and results • Unprofessional conduct by officers • Loss of confidence • Unprofessional conduct by officers or members
<p>6. Failure to deliver major projects and capital schemes</p> <p>Lead: Director of Infrastructure Services</p>	<p>Inadequate management, resourcing or scrutiny of the delivery of major projects High priority projects do not deliver the required or expected outcomes and/or are delayed or not within budget Failure to adequately maintain council assets</p> <ul style="list-style-type: none"> • Financial loss • Unacceptable delays • Adverse inspection and reporting (Public Interest Reports) • Adverse impact on service delivery • Fraudulent activity

<p>7. Failure to maintain the council's reputation</p> <p>Lead: Director of Corporate & Community Services</p>	<p>Failure to meet stakeholders expectations of the council's performance and behaviour</p> <ul style="list-style-type: none"> • Conflicting expectations • Poor perception held by the public • Inadequate or ineffective communication • Erosion of trust and confidence in the council • Negative publicity • Exit of key employees • Difficulty recruiting • Loss of partners
<p>External Risks</p>	
<p>8. Recession resulting from national or local problems including closure of a major employer</p> <p>Lead: Head of Strategic Regeneration & Planning</p>	<p>Failure to attract external investment</p> <ul style="list-style-type: none"> • Council tax implications, and under proposals for the future, implications for NNDR receipts and localised council tax benefit payments • Major work force issues – re training/ new skills required • Impact on subsidiary or supplier companies • Increase risk of benefit fraud
<p>9. Reduced financial settlement resulting in inadequate resources to meet identified needs</p> <p>Lead: Director of Finance</p>	<p>Failure to have prudent and robust financial planning</p> <p>Impact of the economic climate and changes in government policy are not assessed sufficiently early</p> <ul style="list-style-type: none"> • Clear prioritisation of resources • Managing expectations/ service demands • Re modelling service delivery • Efficiency maximisation • Reduced service delivery and /or cessation of service in some areas • Failure to attract external funding or other sources of income • Failure to adequately maintain council assets

	<ul style="list-style-type: none"> • Increased resource variability due to changes in the funding regime for LAs
<p>10. Failure to meet the changing needs of the community and individuals</p> <p>Lead: Director of Corporate & Community Services</p>	<p>The impact of demographic changes e.g. ageing population or immigrant workforce profile</p> <p>Failure to understand the needs of the community</p> <p>Failure to deliver commitments or raising expectations that may not be fulfilled</p> <p>Failure to communicate effectively and not fulfil 'duty to involve'</p> <ul style="list-style-type: none"> • Failure to meet the needs of vulnerable residents • Lack of community cohesion • Anti social behaviour • Strike action
<p>11. Contamination and pollution</p> <p>Lead: Director of Neighbourhood & Environmental Services</p>	<p>Failure to identify and control potential risks from current and former industrial activity in the area</p> <p>Failure to adequately monitor for pollutants</p> <p>Major accident or incident (including criminal or malicious) leading to uncontrolled emissions or releases to land, air or water</p> <ul style="list-style-type: none"> • Resources and response costs • Litigation costs • Adverse impact on services and businesses • Health issues • Loss of public confidence
<p>12. Inadequate emergency planning and business continuity arrangements to manage the impact of major events.</p> <p>Lead: Director of Neighbourhood &</p>	<p>Failure to plan for and respond to emergencies e.g. severe adverse weather conditions; major and widespread health issue (such as Pandemic Flu outbreak)</p> <ul style="list-style-type: none"> • Disruption to service delivery • Impact on stakeholders and local industry • Unanticipated costs/ waste of resources

Environmental Services

- **Increased insurance claims and premiums**
- **Human impact on vulnerable people**
- **Adverse environmental impact**

	Amalgamated risk
Adoption of priorities that do not meet national or local needs	Failure to achieve council priorities that meet the needs of North Lincolnshire residents
Inappropriate pace of change resulting in failure to meet the council's priorities	
Abrupt policy change resulting from changed political leadership nationally or locally	
Failure of the decision-making process	
Failure to conform with legislation, regulation or government policy	Failure to maintain high standards of governance
Contract failure or significant supply chain failure	
Inadequate governance and financial probity arrangements	
Inadequate response to legislation	
Failure of major partnership	
Breakdown of prudent financial management including treasury risks resulting in failure to achieve the medium term financial plan	
Low levels of education attainment	Significant service failure
Failure to provide statutorily required and customer focussed services and inadequate service delivery planning to meet future needs	
Failure to meet the needs of disaffected communities	Failure to meet the needs of the community and individuals
Civil disorder	

RISK roundup

Issue 9
November 2011

A quarterly digest of risk management issues



Water leaks
page 2

One of the roles of the Risk Management Group (RMG) is to ensure that significant risks are adequately managed in service areas. Future issues of Risk Roundup will include articles explaining how these risks are managed. The first article is by the Emergency Planning service (HEPS) and briefly summarises some of the work they are involved in.

EMERGENCY PLANNING

Emergencies – know the risks

“We must prepare for emergencies and promote resilience at every opportunity.”

Emergencies can range from road accidents and house fires that affect a few people to flooding and power outages that affect many thousands. This article describes the risks we face and how we prepare for them.

Understanding the different risks we face, and how they would affect us, can help us become more prepared for dealing with an emergency.

Risks affecting the Humber area

North Lincolnshire Council is a member of the Humber Local Resilience Forum (LRF) which has a sub-group called the Risk Assessment Working Group (RAWG) to assess the risks which could affect our area. RAWG is made up of local councils' emergency services, Environment Agency, Police authorities, the military, health agencies, the Met Office and the Health & Safety Executive.

They prepare the LRF Community Risk Register (CRR) to enable us to concentrate emergency plans on events that are likely to occur and have serious consequences. The very high risks for our area are assessed as severe weather, flooding, industrial accident and pandemic influenza.

The CRR is regularly reviewed to ensure it is up-to-date. The next version will be released in the New Year after it has been approved by the LRF. You can view the full range of risks in the CRR by visiting www.heps.gov.uk.

Risks affecting the whole of the UK

The government regularly assesses the natural hazards and man-made threats that could affect the UK. They are published in the National Risk

Register (NRR). It explains the likelihood of a risk occurring and possible effects of an emergency if it happens. The NRR is on the Cabinet Office website, www.cabinetoffice.gov.uk/ukresilience

The Humber area is well equipped to deal with emergencies of all kinds. North Lincolnshire Council works with our partners in training exercises throughout the year.

To ensure our arrangements work effectively, all the council's plans are tested regularly. The scenarios we use are taken from the very-high and high risks identified in the CRR.

What we should do and must do

The council is a Category 1 Responder under the Civil Contingencies Act. That means we must prepare for emergencies and promote resilience at every opportunity. We aim to increase resilience at an individual, community and business level.

Each of us can prepare a household emergency plan and encourage others to do the same. We can encourage our communities to make local preparations by having a Community Emergency Plan.

On a business level we must ensure our business continuity plans are up-to-date and will work if (when?) we face an emergency. The council also has a legal duty to promote business continuity to the commercial and voluntary sector and we must take every opportunity to do so. For more information on what help is available, call your emergency planning team on 01724 297618 or 297406. The Humber CRR is there to help the whole community to 'get ready'. Please use it.

RISK MANAGEMENT

Lessening leaks



The Association of British Insurers (ABI) estimates damage caused by frozen and burst pipes and leaking water last winter was £680 million. In 2010/11, the coldest winter for 30 years, insurers paid out more than £644 million to businesses and homeowners for water damage.

This came on top of an almost equally high volume of claims in the harsh winter of 2009/10. The scale of burst pipes after a big freeze is a particular headache in buildings such as offices and schools left unoccupied over the festive holiday period. Homes are a problem too: a housing association, for example, could experience hundreds of units affected by burst pipes in the same cold spell.

Typical building claims include damage to ceilings and flooring and costs for redecoration. Wood and timber laminate flooring, in particular, is susceptible to water damage, as are plaster and plasterboard walls. Contents cover is usually for damage to fabrics and carpets and if electrical equipment or wiring is affected the scale of an individual claim increases.

Many establishments fit frost thermostats, which are often set to turn on heating when the temperature falls to 4–5°C. Even this sensible preventative measure wasn't enough for the winter of 2010/11 when the temperature fell so quickly water had already frozen in pipes by the time thermostats kicked in. The effect was to warm the water that then leaked through the cracks.

The advice this year is to set thermostats higher at around 10°C. An increase in fuel bills has to be balanced against the cost of repairing damage from water leaks that might not all be covered by insurance, not to mention the disruption and inconvenience if properties cannot be used.

Another issue often overlooked is that many larger buildings have large roof spaces that are not heated. The loft space of a well-insulated property will be much colder, so pipes need to be well lagged, like those on outside walls.

Plastic pipes and push-fit components are now favoured over traditional copper and brazed joints. While they are cheaper, push-fit joints tend not to be as strong and, over time, plastic pipes may become less resilient. There is also the chance of total failure around a plastic pipe fitting so more water escapes than if it were just a small crack caused by freezing conditions. As plastic push-fit components are easier to install, the workmanship during installation could be of a lesser quality, which could contribute to the number and size of claims.

A major concern in 2011 is that many

organisations have short memories about the harsh conditions of 2009 and 2010. Headlines like 'British winter was the coldest for 31 years'. Met Office figures recorded a December-to-February mean UK temperature of just 1.51C, while the 1971-2000 average is 3.7C', from the BBC in March 2010, have been superseded by record-breaking high April temperatures, drought and a decent summer.

However, if customers ignore the opportunity to take remedial action ahead of the winter of 2011/12, they could be storing up problems with expensive, long-term consequences.

Pipe precautions

- Check heating systems regularly
- Check that pipes and water tanks are well lagged, especially if located in roof spaces
- Check roofs, ridge tiles and chimneys are in a good state to withstand rain, snow and high winds
- Check for leaks, drips and overflows as these could indicate problems
- If buildings are left unoccupied for more than 30 days, drain all pipes, tanks and heating systems and disconnect water supplies
- Make sure plans for buildings showing the location of stopcocks are available in an emergency
- Maintenance regimes should include clearing gutters of debris to reduce blockages and water overflow
- Protect and insulate external taps and pipes from frost
- Fit water management devices that detect falls or increases in pressure that could be due to burst pipes and automatically turn off the water supply
- Install a bund wall around water tanks to catch leaking water, preventing damage in the building.

Temperature control

- Fit frost thermostats and check existing locations to ensure they work effectively (Ensure they are in the coldest part of the building)
- Set heating systems' thermostats to 10°C to maintain ambient temperature to prevent water pipes freezing
- Lag pipes well in large, unheated, well-insulated roof spaces (Almost to the standard of pipes on outside walls).

“Set thermostats higher at around 10°C. An increase in fuel bills has to be balanced against the cost of repairing damage from water leaks that might not all be covered by insurance.”

ROAD SAFETY

Website reveals road crash details

“CrashMap uses data collected by the police about road traffic crashes occurring on British roads where someone is injured.”

To coincide with the publication of Road Casualties GB 2010, a new website has just been launched to allow members of the public to search for and look up details of every road traffic crash reported to police since 2005. Using a fully searchable map, users can locate crashes in a particular area, see what date they occurred, and how serious an incident it was; a detailed collision report can then be downloaded.

It is the first time that the public has ever been given such comprehensive access to this data, and will now allow interested residents, parish councils and transport professionals alike to secure the information that they need.

CrashMap uses data collected by the police about road traffic crashes occurring on British roads where someone is injured. This data is approved by the National Statistics Authority and reported on by the Department for Transport each year. This site uses data obtained directly from official



sources but compiled into an easy-to-use format showing each incident on a map. The site can be found on the data.gov listing for applications using government data sources. It allows users to:

- Freely search the whole country, seeing where crashes have occurred
- Filter crashes by the year in which they took place
- Quickly see which of these were the most serious
- See the precise date on which the incident occurred

If you would like to know more details about the crash

you can then view and download a more detailed report.

If you would like to get in touch with one of the development team, please contact either:

Richard Owen on 07977 122420 or Dan Campsall on 07967 446506.

Alternatively, you can e-mail information@crashmap.co.uk

A time-limited login is provided for those who would like to take a look at the site and access the reports, you can login using the following credentials to secure free credits: email address: launch@crashmap.co.uk; password: launch

INFORMATION GOVERNANCE

Data losses criticised

Recent press stories have reported on public bodies that have been fined or criticised by the Information Commissioner's Office (ICO) for the loss or mishandling of data. Examples include:

10,000 archived records destroyed in hospital data breach:

Dartford and Gravesham NHS Trust breached the Data Protection Act by accidentally destroying 10,000 archived records. The records, which should have been kept in a dedicated storage area, were put in a disposal room due to lack of space. The records were then mistakenly removed from the room and destroyed. The hospital failed to realise that the information was missing for three months.

Youth offenders' details lost on unencrypted laptop:

Newcastle Youth Offending Team (YOT) breached the Data Protection Act by failing to

encrypt a laptop containing personal data which was later stolen. The laptop, which contained personal data relating to young people, was reported stolen from a contractor's home. The contractor had been working on a youth programme on behalf of the Team. The ICO investigation found that, although Newcastle YOT had a contract in place with the contractor, there was a failure to ensure that its employees were complying with necessary security measures.

This is why the council has policies and procedures in place to ensure confidential information is handled properly. **Remember:**

- All data on portable devices e.g. laptops should be encrypted
- Passwords should not be shared
- The disposal of confidential waste paper should be via the council's contractor.



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.

Needle injury claim dismissed

HEALTH AND SAFETY – NEEDLE-STICK INJURY – GLOVES – PPE
Bennett v Bristol City Council, 08.02.11, Bristol County Court

“Allegations included breach of the Personal Protective Equipment at Work Regulations 1992 by failing to provide suitable gloves”

The claimant, B, worked for the defendant, D, as an assistant caretaker. In March 2009, he was clearing rubbish from a residential block where B said users of illegal drugs were known to live. As he lifted a black rubbish bag by its ‘ears’, it split so he lifted it from the bottom.

He then felt a needle prick his finger. He removed the rubber gloves D provided, washed his bleeding finger and went to hospital. No infection was found but B claimed he consequently developed an obsessive-compulsive disorder.

B alleged the injury was caused by D’s negligence and/or breach of statutory duty. His allegations included breach of the Personal Protective Equipment at Work Regulations 1992 by failing to provide suitable gloves. He also alleged breach of the Management of Health and Safety at Work Regulations 1999.

He alleged D failed to carry out a suitable risk assessment for lifting rubbish with rubber gloves, they should have supplied receptacles for used needles, they caused him to lift a split rubbish bag other than by its ‘ears’, and exposed him to an unreasonable risk of injury.

D denied liability. They disputed B’s version of training in lifting bags, particularly split ones – these were to be allowed to spill and workers should then sort through the contents. D provided B with PVC ‘Knitwrist’ gloves, arguing they were suitable for his job. B’s colleagues who searched the bag said there were no uncapped needles in it.

D argued an adequate risk assessment had been carried out

and they provided a ‘sharps’ bin for residents’ use.

D contended the injury was either wholly or partly caused by B’s negligence in failing to wear his gloves, failing to follow training and failing to take sufficient care for his own safety.

The judge accepted B was wearing the gloves D provided but it was unclear how the accident happened as B had given three differing accounts. One witness said all that was found on searching the bin was a capped diabetic syringe and a screw.

The judge accepted the evidence of the training B had received in lifting bags. The judge accepted the gloves supplied provided sufficient protection for the task in question. B was injured through ignoring his training. The judge sympathised with B but dismissed the claim.

Apart from the fundamental requirement that a claimant must prove on balance how an injury occurred, this is another reminder of the importance of employers keeping proper records of risk assessments and training of individual employees. The claimant challenged the defendant’s training officer’s ability to recall training him but the officer surprised the judge by being able to recall the training as the course had to be tailored to meet the claimant’s and his colleagues’ particular needs, given their learning difficulties. We repeatedly see training and risk assessment systems being challenged – the importance of employers being able to produce records demonstrating compliance with their legal duties cannot be over-emphasised.



Time off for prayer not justified

RELIGIOUS DISCRIMINATION – TIME OFF WORK FOR PRAYER
Cherfi v G4S Security Services Ltd, 24.05.11, Employment Appeal Tribunal

The claimant, C, worked for the defendant, G, as a security guard. G was contracted by a customer to provide security

staff at premises in London. Guards were required to remain on site during their entire shift but C, a Muslim,

wished to leave during the day on Fridays to attend a local mosque for prayers.

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Time off for prayer not justified

Continued from page 6

G refused, due to concerns about financial penalties or loss of the contract if staff were absent during their shifts. C rejected G's suggestions as to alternative arrangements. He claimed direct and indirect religious discrimination. The Employment Tribunal (the ET) held the requirement to remain at work was a proportionate means to achieve a legitimate aim – the operational needs of G's business. The ET dismissed most of his claims. C appealed, arguing G placed him at a disadvantage as a practising

Muslim, constituting discrimination under Regulation 3 of the Employment Equality (Religion or Belief) Regulations 2003.

The Appeal Tribunal examined whether the ET had assessed the conflicting needs of the parties. It held the ET considered G had suggested reasonable options to C to accommodate his religious needs. The ET had also considered the real risk of G being penalised and possibly losing the contract itself, were C absent to attend prayers. G justifiably required C to remain on site during his shift. The ET

Employers should approach requests for time off for religious observance carefully and sensitively. There is no automatic right to time off for this reason and these absences may conflict with an employer's operational needs, but reasonable options should be considered with the employee.

had properly carried out a balancing exercise and the appeal was dismissed.

Pavement inspections not at fault

DEFECT IN PAVEMENT – CORRECT INSPECTION CATEGORISATION – S.58 DEFENCE
Beasley v North East Lincolnshire Council, 14.02.11, Great Grimsby County Court

“B alleged the location, being busy, should have been inspected at least every three months.”



The claimant B, tripped on a pavement in Grimsby in February 2007. He claimed damages from the defendant highway authority, alleging negligence and breach of duty under s.41 of the Highways Act 1980 (the Act). The defendant denied liability.

The pavement was designated a category 3 area under the national guidelines for repairing and maintaining the highway, which requires inspection every six months. Accordingly, the area was inspected at six-monthly intervals and the defendant submitted that, under s.58 of the Act, its inspection regime was sufficient.

Records indicated an inspection would shortly have taken place but the site was repaired within two days of the accident. B alleged the location, being busy, should have been inspected at least every three months.

The judge considered the requirements for a s.58 defence including the character of the highway, the standard of maintenance, and whether the defendant should have known of

the danger.

The judge held the defendant took account of the relevant criteria when grading the pavement, such as pedestrian volume and usage. There was nothing unusual about the area and the six monthly inspections were reasonable and carried out responsibly.

The s.58 defence succeeded and the claim was dismissed.

The defendant was able to justify its categorisation of a pavement for inspection purposes by comparing it with a significantly busier area one mile away containing a cluster of shops, a supermarket, restaurants and commercial car parks – that was designated a category 2 area, requiring more frequent inspections. Here the site of the accident was in a “typical residential area”, not a shopping centre and there were no large schools nearby.

School guilty over fall

SCHOOLS – STORAGE OF PAPERS IN LOFT – FALL FROM HEIGHT
Kimbolton School, 26.07.11, Huntingdon Magistrates Court

“Consideration must be given to the demands of the task, equipment and working environment.”

A Swimming pool attendant, S, and her manager, M, wished to retrieve paperwork stored in the loft above the pool's changing rooms. The loft was not boarded but there were beams on which to walk. As S entered the loft and walked along a beam she lost her footing and fell through to the tiled floor two and a half metres below. She suffered a fractured wrist.

The Health and Safety Executive (HSE) prosecuted the school under Regulation 9(1) of the Work at Height Regulations 2005. Under this regulation an employer must ensure that no one working

under their control goes on to or near a fragile surface unless that is the only reasonably practicable way for the worker to carry out the work safely. Consideration must be given to the demands of the task, equipment and working environment.

The school pleaded guilty. It was fined £6,000 and ordered to pay costs of just under £2,300. An HSE Inspector said that falling from height often results in severe injuries or death. The school could have stored the documents in a place easier to reach. Further, a simple risk assessment would have identified the risks.

The HSE urges organisations to give careful thought to where items are stored and to bear in mind access for retrieving them. We saw, in *Bhatt v Fountain Motors* (Court Circular, September 2010), an employer primarily liable for damages after an employee fell while trying to access items from a loft. To avoid HSE prosecution and possible subsequent civil claims for damages, employers should ensure they comply with the Work at Height Regulations 2005.

No liability for school canteen injury

SCHOOL DINING TABLES – HEALTH AND SAFETY – COMMON SENSE
Thompson v North East Lincolnshire Council, 04.05.11, Great Grimsby County Court

The claimant was a senior lunchtime supervisor at one of the defendant's primary schools. As she was showing a new supervisor how to collapse the tables, a table leg sprang towards the claimant's foot. She fell and injured herself.

The claimant claimed damages from the defendant, alleging negligence and breach of statutory duty under the Management of Health and Safety at Work Regulations 1999 (the 1999 Regulations). Her allegations included failings in training and an inadequate risk assessment. The defendant denied liability, disputing how the accident happened. A similar table was brought to court. The judge noted it was a trestle type, used widely in schools. The claimant accepted being satisfied with training arrangements.

With regard to a risk assessment, the judge held the 1999 Regulations dealt with risks to which employees were exposed, not risks of everyday life. The precise mechanics of the

accident were unclear.

The judge held the claimant tried to use her foot as a pointer while holding two food trays when it should have been obvious to her the table leg might spring up and she would have to step back. Her actions caused this accident and the claim was dismissed.

Again an employee's error of judgement in needlessly embarking on an obviously risky task caused their injury. Individuals must use common sense. If the 1999 Regulations were intended, as the judge put it, to cover "something as bog standard" as putting a table away, he asked how far they would be interpreted, despairing that employees might claim there should be risk assessments even for "bringing a sandwich to work".

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.

Any employee intending to take action arising out of these articles should, if in any doubt, contact the council's legal section for advice before doing so.

NOTICEBOARD

Liability certificate

The Employers' Liability Certificate has been renewed and is published on the Intralinc.

Strategic risks

The council's strategic risks are currently being reviewed. The draft risks were presented to the Risk Management Group (RMG) on 10 October 2011. When finalised, the risks will be presented to CMT and the Audit Committee for approval.

Operational Risk Registers

The risk management system has been populated with all the operational risk registers. Please could all risk owners review and update their registers. A central review of all operational registers will commence this month.

Benchmarking

The council submitted data to the CIPFA/ALARM's risk management benchmarking club. Results have been received which show an encouraging level of compliance with best practice and risk maturity. Data was analysed over seven factors and scored on a scale 1 to 5 (1 being the lowest and 5 the highest). Arrangements were evaluated as level 4 (Embedded and Integrated) or level 5 (Driving).

Risk Management system

The risk management system went live for operational risks in July 2011. Training on the system has been provided to risk owners. Further risk awareness training has been provided. Thank you to all of those who attended. I hope you found it useful. If you require further support please contact Caroline Wilson, Group Auditor, ext 6050.

Managing RISK



www.northlincs.gov.uk

How the council deals with risks to
its operation and service delivery

Why is Risk Management important?

Every one of us practises risk management in everyday life

Everyone has an important role to play in the management of risks. As part of the daily routine in your work you will carry out risk assessments and therefore exercise risk management.

The definition of Risk Management is:

ensuring the achievement of outputs and outcomes and having reliable contingency arrangements to deal with the unexpected which might put service delivery at risk

Every one of us practises risk management in everyday life. We lock the doors and windows when we leave the house or go to bed. We wear our car seat belt and keep our car properly serviced, maintained and insured.

At work we are issued with appropriate safety equipment and bring others attention to dangerous situations if any should arise.

The council issues procedures and advice for the safety and welfare. These include lone working policies and access to mobile phones. Officers are encouraged to raise issues of concern and recommend better ways of doing tasks which may include reducing risks.

Risk Management is being aware of potential risks and trying to ensure that the risks are eliminated or minimised. If they do arise there are procedures in place to deal with or minimise their impact.

Types of risk and how we deal with them

How does the council manage risk?

North Lincolnshire Council recognises that all aspects of business risk must be managed. It is a vital control that demonstrates good corporate governance. We make sure risks are properly considered in all our important processes and procedures such as budget setting, project management and service delivery changes etc.

The Risk Management Strategy defines how risks should be managed throughout the council. It defines roles and responsibilities of individuals, departments and groups and details the processes for the management of risk and the escalation of risks for attention. It is reviewed and approved annually and is published on Intralinc.

With the support of members, a Risk Management Group (RMG) was formed. The group is made up of

senior officers across all directorates of the council and includes relevant professionals e.g. Health & Safety and Humber Emergency Planning Service (HEPS). It leads a comprehensive and strategic approach to risk management and is a key part of the council's governance arrangements.

The group meets approximately every eight weeks and its meetings are minuted. Copies of the minutes are circulated to the Corporate Management Team (CMT) and they are also published on Intralinc.

In North Lincolnshire it is the responsibility of the Audit Committee to monitor the effective and operation of risk management in the council. The Audit Committee oversees the work of RMG and receives regular updates on the key issues arising from risk management work.

The council faces two categories of risk:

strategic and **operational**

Strategic Risks have been defined as:

those risks which will significantly impair the achievement of the council's principal aims and objectives, core service delivery and overall probity.

The strategic risk register is a list of significant risks. If these risks were to arise, they could have a significant impact on the achievement of the council's priorities. The register

The council faces two categories of risk

Operational Risk Registers

An operational risk is anything which is likely to prevent you doing your job

describes the controls in place to reduce the likelihood and impact of the risks. Responsibility for managing strategic risks has been assigned to CMT. The risks are reviewed and approved annually.

Operational Risks have been defined as:

those risks, including cross-cutting risks, which will significantly impair the achievement of the service's principal aims and objectives, core service delivery and probity.

Put simply this means anything which is likely to prevent you doing your job.

Operational Risk Registers (ORRs) are prepared for all directorates and link to service priorities. These are living documents and are reviewed as

changes occur and are subjected to Service Performance Reviews. Responsibility for identifying and managing operational risks and for maintaining the ORR rests with the respective service manager.

We record the operational risks on the 4Risk risk management system together with the controls put in place to minimise the risks. We determine the tolerability of risks using the council's risk assessment matrix, by rating the impact of the risk were it to be realised and the likelihood of the risk happening.



Making risk management part of all we do

How is risk communicated?

An important aspect of RMG work is to continue to raise awareness across the council. Training courses are held whenever there is a requirement to update managers on the changes to best practice in risk management. Training courses are also held to provide refresher training opportunities for existing managers and any newly appointed managers.

In addition to information available on the web page and Intralinc a quarterly newsletter, Risk Roundup, is produced.

What is your role?

As stated at the beginning of this document, everyone has an important role to play in the management of risks. We all want to reduce risks to protect staff and to avoid unnecessary costs in order to provide the best possible service to our customers.

There are many different components to risk management and the flow diagram overleaf has been prepared to assist in clarifying the roles of the various groups/components.

There are many
different
components to risk
management.

Who is responsible

What needs to be done

