

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 Council's strategic risks are listed below.
 - Financial Resilience
 - Safeguarding Vulnerable Persons
 - Organisational Leadership and Governance
 - Workforce Planning
 - Stakeholder Engagement
 - Service Delivery and achievement of intended outcomes
 - Adverse impacts arising from COVID 19
- 2.2 The strategic risks are reviewed regularly to assess the triggers, impacts and controls. Overall, with the controls and mitigations that are in place overall risk levels are assessed as low.
- 2.3 The council has generated a specific risk 'Adverse impacts arising from COVID 19' to the risk register. Controls are in place to mitigate and the risk triggers are being monitored and reviewed to incorporate the next phase of the COVID 19 response. A 'one council approach' to developing an impact assessment, which can then be used to review the Strategic Risk Register.
- 2.4 Work to further embed risk management continues. In addition to delivering workshops the latest edition of Risk Roundup has been published. The newsletter includes important articles on significant risk topics such as health and safety, information governance, fraud and insurance.

2.5 A review of the Council's operational risk registers was carried out by the Strategic Lead Risk and Governance in February 2020. 138 of the 166 risks had been reviewed by the service, equating to 83%. A further review is to be carried out in August 2020.

2.6 The Risk and Opportunities Protocol is due for review. This will be presented to The Audit Committee In October 2020.

3. OPTIONS FOR CONSIDERATION

3.1 The Committee should consider whether this update provides sufficient assurance on the adequacy of risk management arrangements. The Committee invited to 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.

5. FINANCIAL AND OTHER RESOURCE IMPLICATIONS (e.g. LEGAL, HR, PROPERTY, IT, COMMUNICATIONS etc.)

5.1 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.

6. OTHER RELEVANT IMPLICATIONS (e.g. CRIME AND DISORDER, EQUALITIES, COUNCIL PLAN, ENVIRONMENTAL, RISK etc.)

6.1 Financial, service, personal safety and reputational issues are considered when evaluating both strategic and operational risks.

7. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

7.1 An Integrated Impact Assessment is not required.

8. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

8.1 There are no conflicts of interests to declare.

9. **RECOMMENDATIONS**

- 9.1 That the Audit Committee considers the assurance provided by the Risk Management progress report on the adequacy of risk management arrangements.

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Background Papers used in the preparation of this report – None

RISK ROUND UP



North
Lincolnshire
Council
www.northlincs.gov.uk



A digest of risk management issues

Issue 31 January 2020

Strategic Risks

1 Modern Slavery in the UK

The Salvation Army, a charity contracted by the Home Office to provide safe housing and support to modern slavery victims, said it has seen 58% rise in British nationals entering into its service last year.

Even though most people think that slavery only exists over-seas, modern slavery in the UK is thriving. The British Government estimates that tens of thousands of people are in modern slavery in the UK today.

Most people are trafficked into the UK from overseas, but there is also a significant number of British nationals in slavery. The most common countries of origin are Albania, Vietnam, Nigeria, Romania and Poland.

Most commonly, people are trafficked into forced labour in industries such as agriculture, manufacturing, nail bars and car washes and housed in squalor. Many women and girls are trafficked for sexual exploitation. Many people, again mostly women and girls, also end up in domestic slavery. Others, particularly children, are forced into crime such as cannabis production, petty theft or begging.

Typically, a person from a situation of poverty and a lack of opportunity gets an offer of an apparently good job in the UK. Often the victim has to take a loan from an agent to pay for the recruitment fees and for the journey. When they arrive in Britain, the job and the conditions they were promised are completely different. Their passport is taken away, and they are told they need to pay off the debt before they can leave. Violence or threats are common practice, both against the victim as well as their family back home.

The Salvation Army, a charity contracted by the Home Office to provide safe housing and support to modern slavery victims, said it has seen 58% rise in British nationals entering into its service last year.



The charity said the number of UK victims who had been enslaved through labour exploitation, which includes forced criminality, rose by 63% between July 2018 and June 2019 and was far the most common type of exploitation.

The challenges to tackle modern slavery in the UK include:

Policing. Although awareness of this issue has risen over the last few years, people are being turned away from police stations are not believed, and those forced into in to crime are treated as criminals.

Identification. The referral system often looks at victims of slavery through the context of their immigration status. This means that people from outside the EU are up to four times less likely to be recognised as victims of trafficking and are often ordered to be deported rather than protected.

Protection. Protection and support for trafficking is patchy, especially in the current climate of government cuts. There is no system to provide long-term support for all victims and many have to move to a safe house before they are fully recovered from the abuse.



Health & Safety Risks

2 Council fined over £1m after child suffers 'life-changing head injury'

Hampshire County Council was found guilty after a trial of breaching Section 3(1) of Health and Safety at Work etc. Act 1974 and has been fined £1.4m and ordered to pay full costs of £130,632.

Hampshire County Council has been fined £1.4m after a child suffered a head injury caused by an unsecured street bollard.

During a visit to Lymington with her family, the six year old climbed onto 69kg cast iron hinged bollard which subsequently fell to the ground taking the child with it. As a result, she suffered a serious head injury that was initially life threatening and had to spend six months in hospital in a critical condition. The extent of her brain injury will not be fully known until her brain has matured.

An investigation by the Health and Safety Executive (HSE) found that the bollard was damaged and not appropriately secured. The damage had been reported to Hampshire County Council prior to the incident and monthly scheduled inspections had failed to identify this.

The investigation also found insufficient information, instruction and training were provided to the council's highways department personnel conducting ad hoc and monthly inspections. The inspection guidance was also misleading.

Hampshire County Council was found guilty after a trial of breaching Section 3(1) of Health and Safety at Work etc. Act 1974 and has been fined £1.4m and ordered to pay full costs of £130,632.



3 Council fined for Hand Arm Vibration failings

Dacorum Borough Council pleaded guilty to breaching Regulation 5 of the Control of Vibration at Work Regulations 2005 and have been fined £100k and ordered to pay costs of £28,672.

Dacorum Borough Council has been fined for exposing seven workers to Hand Arm Vibration (HAVS), caused by excessive use of power tools.

Luton Magistrate's Court heard how Dacorum Borough Council reported seven cases of HAVS between May 2015 and June 2016. The affected employees were all part of its ground maintenance and street care team, looking after the public spaces in Hertfordshire.

An investigation by the HSE found that the council had neither adequately planned its working methods nor trained or informed employees on the risks to their health. Furthermore, Dacorum Borough Council did not limit the duration or magnitude of exposure to vibration and failed to put in place suitable health surveillance to identify problems at an early stage.

Dacorum Borough Council pleaded guilty to breaching Regulation 5 of the Control of Vibration at Work Regulations 2005 and have been fined £100k and ordered to pay costs of £28,672.



Information Governance Risks

4 Former council worker sentenced for unlawfully obtaining personal data

She appeared before Poole Magistrate's Court and admitted one offence of unlawfully obtaining personal data.

A former social services support officer at Dorset County Council has been prosecuted for accessing social care records without authorisation.

The Information Commissioner's Office said an internal investigation by the council found that the accused had inappropriately accessed the records without business need to do so.

The records related to four individuals known to her.

She appeared before Poole Magistrate's Court and admitted one offence of unlawfully obtaining personal data, in breach of s170 of the Data Protection Act 2018. She was sentenced to a six-month conditional discharge, ordered to pay costs of £700 and a victim surcharge of £20.

Operational Risks

5 Council fined £500k after first prosecution by CQC over failure to provide safe care

At Chesterfield Magistrate's Court, the council was ordered to pay a £170 victim surcharge and £5,124 costs in addition to the fine.

Derbyshire County Council has been fined £500k following the first prosecution that the Care Quality Commission has brought against a local authority since the watchdog was given powers to prosecute health and social care providers for failing to provide safe care and treatment in 2015.

The case arose out of an incident at The Grange Home in Eckington in which Miss Allen an 80-year old sustained injuries which led to her death.

The council, which runs the care home, had pleaded guilty treatment at an earlier hearing at Derby Magistrate's Court on 6 June 2019 to failing to provide safe care and treatment resulting in avoidable harm.

At Chesterfield Magistrate's Court, the council was ordered to pay a £170 victim surcharge and £5,124 costs in addition to the fine.

The court heard that Miss Allen, who was living with dementia and other complex medical issues, suffered several falls and loses of balance during her three and a half month stay at the care home. The watchdog prosecuted the council after Miss Allen suffered rib fractures during a fall on 25 March 2016 at The Grange.

These fractures lacerated one of Miss Allen's lungs, leading to a haemorrhage which caused her death on 16 April.

The court heard that staff took Miss Allen to bed after the fall. Although she reported pain in her side no medical advice was sought. The following morning staff found Miss Allen unresponsive and they called for an ambulance. Paramedics were not informed of the fall, nor were they advised that she reported being in pain.

Ryan Donoghue, prosecuting, said "Miss Allen was known to be high risk of falling, yet Derbyshire County Council failed to adequately assess or meet her need."



Fraud Risks

In this issue we start by highlighting a number of convictions for fraud involving school funds and the impact those frauds have had.

6 School finance officer jailed for £27k fraud



At Manchester Crown Court, Crook admitted theft and fraud between 2012 and 2016 and was jailed for 32 months on Thursday.

A SCHOOL finance officer who stole over £27,000 to fund holidays and online gambling has been jailed for more than two and a half years. Debt-ridden Yvonne Crook, 44, siphoned off cash given to a secondary school to pay for day-to-day running costs, uniforms and football clubs.

She also kept £2,800 raised for good causes including survivors of the Rwandan and Syrian conflicts, preserving tropical rain forests and a blood cancer charity. Crook worked for 20 years at Abraham Moss Community School in Crumpsall, a deprived area of north Manchester. She was caught after a routine check found that only £30 out of £8,000 dinner money handed in had been banked. Investigations revealed further cash that should have paid for holiday clubs, school trips and design and technology equipment had also gone.

At Manchester Crown Court, Crook admitted theft and fraud between 2012 and 2016 and was jailed for 32 months on Thursday.

In a statement Lynn Wilson, headmistress at the 1,800-pupil school, said: "The staff feel a huge sense of betrayal from someone they trusted. The amount stolen had an impact on school services.

We are based in an area where there is theft, drug dealing and exploitation. And we support families by providing food and clothing and supporting those with less funds and those who are most vulnerable.

A number of children have almost certainly lost out due to her criminality – children who were thinking of others first and recognised there is always someone worse off than they are."

Sentencing her, Judge Hilary Manley told Crook: "For the young people, the pupils at the school, who were inspired to raise money for charities, to realise a trusted staff member had stolen the money, is one of the lowest examples of betrayal of trust there is."

7 Fraudster Head Teacher and secretary jailed over £500k school fraud

Jones admitted creating over £70,000 worth of work which had supposedly been done by her labourer husband.

A corrupt head teacher, who was the "lynch pin" of a massive fraud that cost the school she ran in a deprived area over £500,000, has been jailed for five and a half years.

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Former school Head Teacher Michelle Hollingsworth systematically syphoned off cash from Annie Lennard Primary in The Oval, Smethwick, for five years helped by her school secretary Deborah Jones who was sent to prison for four years three months.

The 55-year-old Head Teacher's builder husband Joseph, aged 58, was imprisoned for a year for his part in the racket and an attempt by him to pervert the course of justice.

The two women fraudsters made 180 visits to boutique stores, some as far away as Cheshire, on shopping sprees funded by cheques from the school and plundered more of its money in kick-back deals during which tradesmen were paid for work that was either overpriced or invented and shared the profit with one or both women.

Judge Simon Ward, sitting at Wolverhampton Crown Court, told the shamed head teacher: "You had great responsibility at the school, were in a position of great trust in charge of the finances to ensure best value for the school.

It wasn't your money and it had to be spent wisely not generously on yourself."

The judge continued: "These series of conspiracies would not have existed without you. You abused your position of power, trust and responsibility to become the lynch pin for all this offending.

You amassed a small network of people who each became involved in your dishonest scheme.

As a result the school is having to rebuild itself, not with bricks and mortar but with different financial procedures and other changes to raise moral from its parlous state caused by the two people running the school turning out to be criminals."

Jones admitted creating over £70,000 worth of work which had supposedly been done by her labourer husband.

She also pleaded guilty to conspiring with the Head Teacher to defraud Sandwell Council which fund Annie Lennard Primary.

She was also convicted of two further charges of conspiring to defraud with other workmen.

Hollingsworth was found guilty of conspiring to defraud with five other people and an attempt to pervert the course of justice by trying to get one of those involved - carpenter Robert McKeown - to take all the blame for his involvement in their deal that involved payment for non-existent work that ran up a further £40,000 loss for the school.

McKeown, 35, and from Hill Street, Hednesford, pleaded guilty and gave evidence against the headteacher at her trial.

Sports teacher Nathan Cooper, 28, from Pebble Mill Drive, Cannock, who was convicted of conspiring with Jones and Mrs Hollingsworth to defraud the school and Sandwell Council out of at least £17,000 was given a 14-month prison term suspended for two years with 120 hours unpaid work.

Kitchen fitter Stephen Roberts, 60, from Great Saredon, Sharesill, who was found guilty of being involved in a fraud conspiracy with the headteacher during which he laundered money for her, got nine months jail suspended for two years with 120 hours unpaid work.

Michael Dewsbury, 54, who lives next door to the Hollingsworth family, convicted of conspiring to pervert the course of justice, was given a three-month prison sentence suspended for 18 months and ordered to do 120 hours unpaid work and pay £10,000 costs.

This example of fraud highlights a number of issues, ranging from the lack of an anti-fraud culture among staff, lack of scrutiny on finances and a failure to follow (or have) a procurement process.

It is therefore, essential that the Council's zero tolerance policy toward fraud is endorsed by senior management and made clear to all employees, including how to raise concerns of fraud or financial impropriety.



8 School devastated after it is conned out of £19,000 by scammers

The parent-led charity Buckingham Events had raised around £50,000 for the school in total.

Parents who raised almost £19,000 for their children's school in Sussex have had the money stolen by internet fraudsters.

The cash was to pay for a new playground at Buckingham Park Primary in Shoreham.

However online hackers intercepted an email and diverted the money to an overseas account.

"It was a legitimate invoice that we were asked to pay. And while we were in the process of going through an email thread to make that payment, our emails were intercepted by somebody who we don't know. They [the fraudsters] then gave us fraudulent bank details to make the payment to."

– JODIE DYER, CHAIRPERSON, BUCKINGHAM EVENTS

The money raised was going to go towards rebuilding the school's playground, which was being revamped for the first time in 11 years.

The parent-led charity Buckingham Events had raised around £50,000 for the school in total.

One section of the playground has been rebuilt.

However it was while the charity was paying for some of that work that it was hit with the £19,000 fraud.

"We feel violated by what's happened. Unfortunately this level of crime has become so sophisticated and because it is cyber-crime, it is so detached. So those people behind this have no emotional attachment to our situation at all."

– HELEN COOK, SCHOOL FUNDRAISER

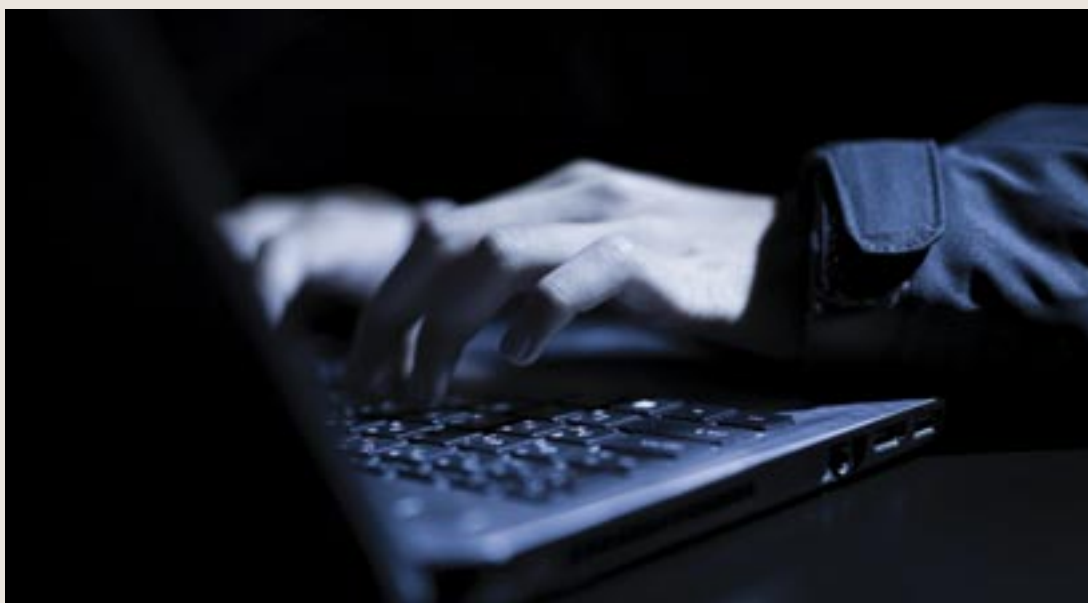
The playground money had taken three years to raise through scores of events. The children themselves helping through things like ice cream sales.

Police have told the fundraisers that the stolen money has been transferred abroad, with little hope of getting it back.

An appeal has been launched to try to replace the stolen funds.

Some schools across the region now depend on fundraising, not just for luxuries but for essentials.

Parents and fundraisers say the criminals who carried out this fraud have deprived the children of the play facilities they need.



This fraud highlights the importance of carefully checking the identity of all e-mail correspondence to ensure it is from a legitimate source, particularly when that correspondence requests a change in payment method or a change of bank account. Look up Mandate fraud in the fraud A-Z available on TOPdesk (NLC) & Wiki (NELC) under Audit & Assurance.



9 Banbury taxi driver 'failed to disclose driving death'



Mahmood had been sentenced in 2010 when he hit a man with his car and killed him.

A taxi driver has been convicted of fraud after he failed to declare a conviction of causing death by careless driving on his licence application.

Oxford Magistrates' Court heard Ifraan Mahmood, 30, "ticked no" to previous convictions on a Cherwell District Council licence application form.

Mahmood had been sentenced in 2010 when he hit a man with his car and killed him.

Magistrate Nicola Moeran said Mahmood answered the form "dishonestly".

Despite Mahmood's previous convictions being revealed on a disclosing and barring service (DBS) certificate, the father of two was granted a council licence "straight away".

Christine Pegler, a licence enforcement officer, could not answer why the licence was granted, but said had the council known his offences, it would have been refused.

The court heard the council investigated Mahmood's application after a police officer made a complaint in January.

Ms Pegler said she questioned a staff member who dealt with Mahmood's DBS check but the employee "had no recollection".

'Clearly ticked no'

The court heard Mahmood failed a "knowledge test" to gain a taxi licence in 2016.

The defendant said his previous convictions had been "all disclosed" on his 2016 application, so he left the boxes "blank" when he reapplied in 2018, because "he could not remember the dates the offences took place".

He said he was told by a council officer they would update his new application with the convictions from his previous one.

He said: "All my offences were on the first application. I wanted to get it off the first application. I cannot lie, because it will come back to you with DBS checks."

Prosecuting, Richard Atkins said the defendant left an application meeting "with a form that said you had no previous convictions" and also left a form with a council officer "that was completed, that you had no convictions at all".

Fining the defendant £500, Mrs Moeran said Mahmood "very clearly...ticked no" to any previous convictions on the application he made in 2018 and had been "dishonest".

This case highlights that there does not need to be a financial loss to the Council for fraud to be committed. In this case, Mahmood stood to make a gain for himself by obtaining a taxi licence that he would not have been granted had he declared his conviction.

The case also demonstrates that where a Council undertakes checks to ensure a person meets the criteria for any service it provides, those checks are only beneficial if the information they contain is properly acted upon. In this case, the Council was aware from the DBS check that Mahmood had previous convictions but failed to act on this information.

10 Former council employee who falsified air quality data convicted of fraud



A council investigation revealed that some of the test results had been fabricated.

A former Waverley Borough Council employee has been given a suspended prison sentence for committing fraud after falsifying air quality data.

Ann-Marie Wade, 44, had previously pleaded guilty at Guildford Crown Court to two charges of fraud.

The charges related to test results from 2015 and 2016, when Ms Wade was working as an environmental officer for the council.

To report on air quality, diffusion tubes are located at various sites and have to be replaced monthly and sent to a laboratory for analysis. The results are submitted to the Department for Environment, Food and Rural Affairs (DEFRA).

A council investigation revealed that some of the test results had been fabricated.

'For fraud to be committed, no gain or loss needs to be made, but the defendant's conduct must be dishonest and their intention must be to either make a gain or cause a loss to another,' said Paul McGorry from the Crown Prosecution Service.

'In this case, a loss was caused to her employers, who had to try and rectify her actions and she was paid to carry out a function she did not fulfil.

She knew the importance of her work and the potential consequences for the council of providing false data, not least the impact this would have on its reputation and its legal obligation to supply this information to the Government.'

A council spokesperson said: 'The council takes the issue of air quality extremely seriously and recognises that it is an important issue for our residents. That is why we acted promptly by commissioning an independent audit investigation after discovering issues with the reporting and monitoring of the council's air quality data, and subsequently asking the police to investigate.'



11 Man failed to declare mother's capital to avoid paying for her social care.

The case was referred to York Crown Court for sentencing on 4 December where he received a 20 month suspended sentence and 80 hours of unpaid work. He was also ordered to pay court costs of over £1,100 and an £80 victim surcharge.

A man from York has been given a 20 month suspended sentence, 80 hours of unpaid work and an order to pay the council more than £1,100 in costs, for a fraud depriving the public purse of over £86k.

The council funded his mother's social care, and he failed to inform them when his parents' property sold in 2014. He subsequently lied about this on a financial assessment form. The £86k has been paid back to the council in full.

The defendant was the financial representative for his mother who received social care support funded by City of York Council. Information was received that that his parents' property had been sold in 2014 for £200k and he had not declared this to the council in an attempt to avoid paying for his mother's care fees.

The investigation found that on two separate occasions in 2015, he informed the council that his parents were still joint owners of the property and that his father still lived there. In a financial assessment for social care funding, jointly owned properties are disregarded if a family member continues to live there.

Investigators obtained financial information which showed that £198k from the house sale was deposited into the son's bank account. This money should have been taken into account for his mother's social care funds, meaning that the council would not have had to pay £86k out of the public purse.

The man pleaded guilty to two charges of fraud by false representation at York Magistrates' Court on 8 October 2019. The case was referred to York Crown Court for sentencing on 4 December where he received a 20 month suspended sentence and 80 hours of unpaid work. He was also ordered to pay court costs of over £1,100 and an £80 victim surcharge.

When sentencing, the judge said that a significant factor in mitigation was that he had already repaid the £86k to the council.

12 £47k direct payment fraud

Mr Ssemanda, a qualified accountant from Eltham, was given a 24-month suspended prison sentence, ordered to carry out 180 hours of unpaid work and must pay £100.

Stephen Ssemanda and Winifred Nyonyintono have been found guilty of fraud after receiving more than £47,000 in direct payments for care for his mother that did not take place.

Mr Ssemanda, a qualified accountant from Eltham, was given a 24-month suspended prison sentence, ordered to carry out 180 hours of unpaid work and must pay £100.

Ms Winifred Nyonyintono, also a qualified accountant, was identified as one of five carers who had received direct payments for the non-existent care of Mr Ssemanda's elderly mother. The 33-year-old from Sheffield was ordered to undertake 70 hours of unpaid work in the community and to pay costs of £100.



Insurance Risks

13 Defendant who brought fraudulent 'phantom passenger' claim against council given suspended sentence



Horwich Farrelly said it had recorded a series of phone calls with Falkingham in which he admitted that it was a "dodgy claim" and a "cash for crash claim".

A defendant who brought a fraudulent claim against Cardiff Council in a 'phantom passenger' road traffic accident case, has been sentenced to four months in prison, suspended for 18 months.

Horwich Farrelly worked with insurer Zurich to defend the claim, which arose from an accident in 2014.

The law firm said Michael Falkingham had claimed he was a passenger in a transporter van involved in a collision with a Cardiff Council transit van, when he was not even present at the scene of the incident.

Falkingham withdrew his injury claim before the case came to court, but was subsequently given the suspended sentence. As part of his claim, Falkingham went to the University Hospital of Wales to register his apparent injuries after the accident, even though he was not in either of the vehicles.

Horwich Farrelly said it had recorded a series of phone calls with Falkingham in which he admitted that it was a "dodgy claim" and a "cash for crash claim".

14 School Caretaker's occupational stress claim dismissed



During the trial, and after two days of cross-examination, the claimant abandoned a large number of the allegations that he had raised, including allegations of excess workload.

This case concerned a £100k claim for occupational stress brought on by a former caretaker at a local authority school in the Royal Borough of Kingston-upon-Thames.

The claimant initially alleged overwork, but also made various allegations of bullying and harassment by the head teacher and other members of staff; these included serious allegations about the motives of the school's senior leadership team.

The claimant had one short period off work for stress in January 2014, and then went off again for stress in December 2014. He did not return to work. In January 2015, the school formally suspended him and instigated disciplinary proceedings against him. This step was alleged to have exacerbated his psychiatric illness.

During the trial, and after two days of cross-examination, the claimant abandoned a large number of the allegations that he had raised, including allegations of excess workload.

The claimant argued that his absence for stress in January 2014 amounted, on medical evidence, to a psychiatric injury. The council was therefore on notice of special vulnerability such that it should have undertaken a stress risk assessment on his return to work. Had the council done this, the claimant argued, it would have been aware that: his subsequent un-cooperative behaviour leading to December 2014 was indicative of an imminent psychiatric breakdown; that this would have triggered a duty to act; and that steps would have been taken to prevent the psychiatric illness in December 2014 developing. It was also argued that he should not have been suspended.

The council argued that the work absence in January 2014 was not, on medical evidence, because of a genuine psychiatric illness, and that had further inquiries been undertaken at the time, they would not have warned the council that the claimant had special vulnerability. The council argued it was therefore entitled to assume that the claimant was able to withstand the ordinary pressures of his job, and that his behaviour in Autumn 2014 did not put it on notice that there was a foreseeable risk of imminent psychiatric illness.

The court dismissed all allegations of bullying and harassment made against the senior leadership team. On the question of psychiatric illness in January 2014, the judge preferred the medical evidence of the defendant to that of the claimant.

The claimant was found to have had depression at the time of his suspension, that pre-dated the suspension, but the judge found that the defendant did not know this, and the depression was not foreseeable. Even if the defendant had known at the time of the suspension, the suspension was a reasonable act on the facts. The claim was therefore dismissed.

Challenges to school and supervision of activities

M (A child) v City of York Council

The accident occurred at a local school for students with learning difficulties. The claimant was riding an adapted bike that tipped, and the claimant fell sustaining a fractured arm. There were factual allegations which were disputed, which included that the claimant had not ridden the recumbent bike before and lacked experience and whether the teaching staff had secured the helmet, strapped the claimant into the bike and provided instructions appropriate to the specific learning needs of the claimant.

The Judge stated it was understandable that the accident had been significant in the claimant's mind, but this had caused the claimant to be mistaken in the account of the accident.

It was held there was no breach of duty or negligence on the part of the council and the claimant had failed to discharge the evidential burden. It was reassuring to the teachers to hear the Judge concluding that the staff were fully responsive and attentive to the claimant's needs. The school had appropriately instructed and supervised the claimant while using the bike. They had kept written records of training provided to staff and periodically reviewed the risk assessments. The claim was dismissed.

The risks of vandalised signage

Alatouny v Newcastle City Council

A claimant walked into a sign positioned on a footpath, sustaining injuries. The sign was in place to warn the public that the lane was a dead end. However, it had been vandalised and at the time, the top of the sign had slipped down slightly and was not in its original position.

The claimant argued that the council were liable in nuisance and in negligence.

The court took into account that the sign had been inspected only four days before the accident by a highways officer. He had allocated it for repair which was due to take place within ten days. He took the view that the sign was not a danger. In particular he observed there was over six feet of clearance underneath and it was at the side of a wide path. Crucially, he confirmed that if the sign presented an immediate risk then he would have allocated it for repair within 24 hours.

The court held that the ten-day repair request was reasonable and that there was no breach of duty. The claim was dismissed.

