

CORPORATE GOVERNANCE COMMITTEE
12 JUNE 2015

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

RISK MANAGEMENT UPDATE

Purpose of the Report

1. One of the key roles of the Committee is to ensure that the Council has effective risk management arrangements in place. This report assists the Committee in fulfilling that role by providing a regular overview of key risk areas and the measures being taken to address them. This is to enable the Committee to review or challenge progress, as necessary, as well as highlight risks that may need to be given further consideration. This report covers:
 - a) The Corporate Risk Register (CRR) – an update including the addition and removal of risks
 - b) Updates on Business Continuity and Insurance
 - c) Mitigating the risk to cyber security

Corporate Risk Register (CRR)

2. The Council maintains departmental risk registers and a Corporate Risk Register (CRR). These registers contain the most significant risks which the Council is managing and are owned by Directors and Assistant Directors.

The CRR is designed to capture strategic risk that applies corporately or to specific departments, which by its nature has a long time span. Risk owners are engaged and have demonstrated a good level of awareness regarding their risks. The full CRR is attached as Appendix A.

3. The CRR is a working document and therefore assurance can be provided that, through timetabled review, high/red risks will be introduced to the CRR as necessary. Equally, as further mitigation actions come to fruition and current controls are embedded; the risk scores will be reassessed and this will result in some risks being removed from the CRR and reflected back within the relevant departmental risk register.

Although the format of the register largely remains unchanged, three additional columns have been incorporated in order to begin to implement the recommendations arising from the Risk Maturity Assessment Action Plan reported to this Committee in February 2015.

The first additional column 'Risk Response' requires risk owners to consider and record their thought processes around managing the particular risk towards the desired residual risk position, and specifically is it to be: -

- Tolerated – they are content to accept the level of risk and undertake no further mitigating actions. The risk is still subject to ongoing review
- Treated – put in place further controls measures that reduce the likelihood and/or impact of the risk to acceptable levels. The vast majority of risks will fall within this category
- Terminated – the risk will be removed by either stopping or reducing the scale or scope of the function
- Transferred – the risk will be insured, or outsourced

This enables risk owners to determine whether the cost of implementing further mitigating actions and controls is merited when compared to the risk reduction benefits achieved. Where further actions or additional controls are identified to treat the risk, two further additional columns have been inserted to assign actions to appropriate risk owners along with suitable timescales for implementation, thereby improving accountability for completing the action(s).

It is acknowledged that the changes above are work in progress.

4. Key changes since the CRR was last presented to the Committee on 20 February 2015 are:

i. Addition of new risks:

- Risk 3 - Community Infrastructure Levy (CIL). The government set a date by which CIL ought to be introduced (1st April 2015), however this was optional. After 1 April 2015, regardless of whether a CIL is introduced in a Local Planning Authority area, the use of s106 planning obligations (what the developer has agreed to do) will be restricted in use to 5 obligations for any infrastructure project. The position in Leicestershire is that CIL has not been introduced by district councils, thereby resulting in restriction of the pooling of section 106 contributions and potentially both a financial risk and one off legal challenge.
- Risk 4 - Insurance, the costs arising from uninsured risks is increasing.
- Risk 5 - Impact of the Care Act 2014 on the long term Council delivery strategies (but see removed risk 3 below).
- Risk 6 - Better Care Together (BCT), there are a number of strategic risks associated with the health and social care economy's 5 year plan and strategic outline case (but see removed risk 4 below).
- Risk 17 - Child Sexual Exploitation, the risk is concerned with the impact of both historic and newly identified child sexual exploitation cases on resources and the Council's reputation.

ii Removal of risks:



- Previous Risk 3 - Proposals in the Government's Care Act which provide for very significant changes and implications for Adult Social Care and the whole Council. There is continuing work around Phase 1, and monitoring systems have been set up to ensure that new / revised policies are effective. The risk has been rescored from 25 to 12. See also paragraph 5 below.
- Previous Risk 4 - Health and Care Partners failing to deliver integrated care to the local population (including via the Better Care Fund (BCF) plan). This risk has been maintained at 12 and has been removed from the Corporate Risk Register (CRR) i.e. a score below that required to be included in the CRR
- Previous risk 10 - Disruption to business as usual as a result of delays in embedding systems, processes efficiently and effectively;
 - LAS Project Phase 2 Project- risks to operational business as usual and compliance with reporting requirement of the Care Act 2014. A number of mitigating controls are now in place and the risk has been re-scored and reduced from 15 to 8
 - Leicestershire Highways Operations (LHO) - Financial Information System Implementation Project. A number of mitigating actions were completed during 2014/15. Permanent staff are now in place and regular monitoring is in place through Project Board. The risk score has been reduced from 15 to 12
- Previous risk 14 - Police and Crime Commissioner (PCC). Improved partnership relationships with the PCC through the development of the Strategic Partnership Board and regular meetings now in place with the PCC and LCC officers. Score reduced from 15 to 12.
- Previous risk 17 - Reduced recycling performance. The risk has been redefined in 2015/16 to cover significant reduction (>5%) in recycling performance rather than just a reduction in recycling performance. Score reduced from 15 to 10.
- Previous risk 18 - Risk to the County Council surrounding transfer of nine Elderly Persons Homes to Leicestershire County Care Limited (LCCL) and repayment of the capital sum for the transfer. See note 7 below for further information




5. At its meeting on 20 February 2015, the Committee requested that a presentation be provided on the following risk :





Proposals in the Government's Care Act which provide for very significant changes and implications for Adult Social Care and the whole Council.





As explained above, that particular risk area has since been mitigated, so the presentation will concentrate on the revised risk.


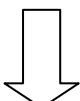
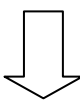

6. The most up-to-date position of the risks on the CRR is shown in the table below. The arrows explain the direction of travel for the risk, i.e. where it is expected to be within the next twelve months after further mitigating actions, so that: -
- a) A horizontal arrow shows there's not much movement expected in the risk
 - b) A downward pointing arrow shows there's expectation the risk will be mitigated towards 'medium' and would likely be removed from the register
 - c) An upwards pointing arrow would be unusual since it would show that the already high scoring risk is likely to be greater

Dept./ Function	CRR Risk No	Risk Description	Current Risk Score (incl changes)	Update	Direction of Travel (Residual Risk Score over the next 12 months)
Medium Term Financial Strategy (MTFS)					
All	1	Risk around the MTFS including the ability to deliver savings through service redesign and transformation as required in the MTFS.	25	In the light of the election result the MTFS assumptions need to be reviewed to identify the impact of government policy on the County Council. Demand led budgets particularly in Adults and Children's services remain a risk. The Transformation Programme is key to the delivery of the MTFS. Programme governance continues to develop with a clear focus on practical delivery of savings.	 Expected to remain high/red
C&FS	2	Cost of school sponsorship to LCC prior/post to conversion	16	There has been a significant slowing of academy conversions in recent months. In terms of sponsorship and meeting the costs of deficit budgets, this largely relates to secondary schools. Shephed Hind Leys and High School are the only remaining outstanding secondary schools awaiting sponsorship conversion later during the year (and having a sizeable deficit budget). Following an internal audit report,	 Expected to remain high/red

				action has been taken to develop procedures to determine the priority of sponsorship schools in the context of other demands on the capital programme. Oversight of sponsorship capital requirements is undertaken through the Corporate Schools Group	
CE	3	Funding and reputation risks: CIL Regulations (1 April 2015) are now in force which restrict the pooling of section 106 contributions	20 (New)	Community Infrastructure Levy (CIL) charging schedules are not in place by District Councils. Analysis for S106 contributions (since 2010) is underway for schools. This will be extended to other areas also. Further work is necessary to review all s106 agreements where there has been more than 5 obligations for an infrastructure project or type of infrastructure with a view to determine categorisation and reach agreement with the Local Planning Authority	 Expected to remain high/red
CR	4	The cost arising from uninsured risks increases	16 (New)	Municipal Mutual Insurance Ltd (MMI) latest results indicate a worsening position, although they have sufficient funds to be able to service claims for several years	 Expected to remain high/red
Health & Social Care Integration					
A&C	5	Impact of the Care Act 2014 on the long term Council delivery strategies	20 (New)	Draft guidance has been received from Department of Health. LCC has responded to the consultation on the draft guidance. Preparatory planning is taking place.	 Expected to remain high/red

CE / A&C	6	Better Care Together (BCT) - there are a number of strategic risks associated with the health and social care economy's 5 year plan and strategic outline	16 (New)	<p>The BCT programme is developing:</p> <ul style="list-style-type: none"> • Delivery plans (outcomes and milestones for the next 12-18 months) • Update planned at next all member briefing in July and Health & Wellbeing Board (HWB) meeting in July. • Public consultation planned in the Autumn • Scheme of Delegation has been shared and feedback provided by LCC • Further clarity on the governance arrangements between BCT programme and HWBs. Meeting with BCT Independent Chair and BCT programme Director being arranged to progress this. • Majority of the Leicestershire Better Care Fund deliverables are aligned to the urgent care and frail older people's work streams. 	 <p>Expected to move to medium/amber</p>
All	7	Challenges caused by the Welfare Reform Act.	25	Note : No change to previous reported position	 <p>expected to remain high/red</p>
ICT, Information Security					
CR	8	Maintaining ICT systems and having the ability to restore services quickly and effectively in the event of an outage.	15	Significant progress has been made over the last 12 months to mitigate number of disaster recovery risks	 <p>Expected to move to medium/amber</p>
CR	9	Continuing risk of failure of information security.	16	Whilst a number of actions have been taken to tighten governance and controls, it will be essential to continue a programme of communication and training for staff, and to embed security as part of operational activities.	 <p>Expected to move to medium/amber</p>

All	10	Failure by LCC to provide effective business intelligence to services will restrict implementation of effective strategies, impacting council wide priorities and delivery of the Transformation Programme.	15	Good progress has been made over the last 9 months, and the appointment of a new Head of BI and the establishment of the Centre of Excellence in July 2015 are important milestones. A new data and BI Strategy will be approved over the next 3 months.	 Expected to remain high/red
CR	11	Insufficient capacity to provide Information & Technology solutions.	16	Future savings requirements will have an impact on the availability of resources, and demand management and new ways of delivering I&T solutions will be required	 Expected to remain high/red
C&FS	12	Retention of children's case files beyond Data Protection Act (DPA) requirements	16	No change – risk will be reviewed 23.10.15 with Caldecott Guardian.	 Expected to remain high/red
Transportation					
E&T	13	Impact of an increase in unplanned and speculative local developments to address the shortfall in the five year housing supply which could have an adverse impact on the functioning of the transport network.	15	No change to current risk score. However a review of planning responses across the authority is now being undertaken by the Head of Planning which should reduce the residual risk score.	 Expected to move to medium/amber

Partnership Working					
C&FS	14	Improved outcomes and financial benefits of Supporting Leicestershire Families (SLF) are not achieved, leading to inability to financially sustain the SLF service beyond 2015/16.	15	Entering Phase two of the Troubled Families Programme, taking into account the completion of Phase one	 Expected to remain high/red
E&T	15	LLEP-insufficient funding for transport schemes to deliver economic growth and LTP3 /Strategic Plan. Risk regarding match funding requirement for the Council	20	No change to current risk score. Further actions undertaken during 2014/15 have reduced the residual risk position for 2015/16 however the risk still remains for future years.	 Expected to move to medium/amber
Commissioning & Procurement					
CR	16	The Authority does not obtain the required value and level of performance from its providers and suppliers	15	Programme of work underway to help mitigate this risk as part of the Effective Commissioning Enabler (Transformation Programme) and business continuity arrangements	 Expected to move to medium/amber
Safeguarding					
C&FS	17	Non-recent child sexual exploitation in the context of Leicestershire County Council following the prosecution of Frank Beck and the Kirkwood Enquiry	25 (New)	Strategic Group chaired by the Assistant Chief Constable is attended by Directors of Children's Service for Leicestershire, Leicester City & Rutland and other senior officers. The Group ensures effective planning and responses. Further planning is underway for known events e.g. National Enquiry	 Expected to remain high/red

Leicestershire County Care Ltd (LCCL)

7. A specific update has been provided against this risk quarterly. The current risk score is 12 and the risk rating assigned is Amber.
The full deferred payment has been received (£1.62m excluding interest), but there remains £330,000 payable on or before 31/12/2016. This was agreed as part of the re-negotiation of the deferred purchase agreement.

Other Risk Information

Municipal Mutual Insurance Ltd.

8. Leicestershire County Council was insured by Municipal Mutual Insurance (MMI) between 1969 and 1992. MMI entered into administration in 1992 and became the subject of a Scheme of Arrangement with its creditors. In November 2012 the County Council was notified that there would not be a solvent run off of claims owing to high claim numbers and an adverse decision in the Supreme Court.
9. In order to restore the company's balance sheet the Scheme Administrator imposed a levy of 15% on all claims paid to date and on all future claims. The County Council made a payment of £2.2 million in respect of all claims settled at the levy date and continues to meet the 15% liability for claims currently being dealt with.
10. The financial position of the MMI continues to deteriorate. The balance sheet showed net liabilities of £76.2 million at 30th June 2014 compared to £28.9 million at 30th June 2013. These figures take into account the levy of 15% imposed on Scheme Creditors by the Scheme Administrator on 1st January 2014. There is an increasing likelihood that the levy percentage will be increased, although it is uncertain when this will occur.

Independent Insurance Co. Ltd.

11. Leicestershire County Council was insured with Independent Insurance between 1993 and 1997 at which point the insurer entered provisional liquidation. Since this time legal liability claims have continued to be registered with the company. The company is insolvent and unable to pay its creditors in full. The company is proposing to implement a Scheme of Arrangement as provided for in sections 895 to 901 of the Companies Act 2006.
12. The provisional liquidators, PricewaterhouseCoopers LLP, are proposing the Scheme as a means of making dividend payments to creditors in respect of their claims against the company. The realistic alternative to the Scheme would be a liquidation of the company. This is considered a less attractive alternative to a Scheme of Arrangement for the principal reason that funds can be distributed to creditors earlier in the Scheme than would be the case in a liquidation of the company.

13. Initial indications are that Leicestershire County Council is likely to receive 14 to 15 pence in the pound in respect of all outstanding claims.

Business Continuity (BC)

Business Continuity and Resilience Team

14. Following the departure of the Business Continuity Manager, the BC Team were amalgamated into the Resilience Partnership Team, reporting to the Resilience Manager

Schools

15. A 'Loss of School' (impact of major closure) plan has been created in conjunction with Corporate Resources. This plan is 'owned' by Children & Family Services.
16. Consideration is currently being given to options for the BC team to offer Business Continuity advice and support to both County controlled and Academy status schools.

Supplier BC Assurance

17. A list of existing critical suppliers was compiled in December 2014 and their BC resilience procedures are being reviewed during 2015.
18. The BC Assurance Process is currently being integrated into the eTendering process with a view to going live from June 2015.

Work Area Recovery

19. No further work is currently planned at County Hall. However, work is being undertaken with Nottingham City Council to support them in developing effective work areas recovery arrangements for the East Midlands Shared Service staff based at Langley House in Nottingham.

New Data Centre

20. The BC team are now integrated in to the planning process for the new Data Centre to ensure that adequate BC measures are built in throughout the full project lifecycle, and into the Data Centre itself.

Incident Monitoring & Exercises

21. The Ebola situation continues to be monitored, but is not considered a major risk to the UK at the moment. There will be no further updates on this unless the situation changes significantly.
22. A 'white powder' incident in the post room at Harborough DC was eventually proven to be a hoax. However, this has resulted in a review of advice and procedures in all of our local authorities.

23. Several BC exercises have taken place, involving various teams and different types of exercise.
24. An integrated Training and Exercising Schedule for Business Continuity and Emergency Planning has been developed for 2015/16. This includes a programme of Elected Member briefings and an opportunity to attend an Elected Members training/exercise event in September 2015.

Mitigating the risk to cyber security

25. At the 20 February Committee, Members considered a report of the Director of Corporate Resources, which introduced three new and updated policies and strategies that now form part of the Council's overall suite of counter fraud documents. The report stated that the majority of the Council's counter fraud documents were now up to date and relevant. Members enquired on the position with a specific cyber-security policy i.e. one of the suggested policies in the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption, which the Council has adopted.
26. Internal Audit Service conducted an exercise mapping current Council policies, procedures and guides against the Government's '10 Steps to Cyber Security: Advice Sheets' (detailed cyber security information and advice across 10 critical technical and procedural areas). The conclusion was that whilst there isn't a specific cyber security policy, the requirements are covered in a number of other policies and guidance and particularly the recently re-launched Information Security and Acceptable Use Policy, Internet Blocking Policy and the Information Security E-learning Package.
27. Additionally, cyber security risk is mitigated by specific current controls in two corporate risks, number 7, '.....maintaining ICT systems and having the ability to restore services quickly and effectively in the event of an outage is vital', and number 8, '...The responsibility to protect the confidentiality, integrity, availability and accountability of information means there is a continuing risk of failure of information security'. Information Communication and Technology (ICT) health checks and penetration tests are undertaken as a requirement to meet the annual PSN accreditation. The health check is undertaken by an accredited external supplier independent of the council. Furthermore all ICT changes, new processes and systems go through the rigorous information security risk assessment process to ensure that ICT security risks are managed to an acceptable level and that mitigating controls are implemented where possible. Nevertheless, the risk owners remain vigilant and have proposed further actions/additional controls to both risks.
28. The Internal Audit Plan contains audits that cover cyber security risk which are undertaken by a highly qualified and experienced ICT Auditor.

Recommendation

29. That the Committee:

- a) Approves the current status of the strategic risk, the addition of new risks facing the Council and the updated Corporate Risk Register;
- b) Make recommendations on any areas which might benefit from further examination and identify a risk area for presentation at its next meeting.

Resources Implications

None.

Equality and Human Rights Implications

None.

Circulation under the Local Issues Alert Procedure

Members News in Brief item covering the agreement reached with LCCL regarding payment has been circulated to all members.

Background Papers

Report of the Director of Corporate Resources – ‘Risk Management Update’ – Corporate Governance Committee, 25 November 2013, 10 February, 12 May, 23 September, 24 November 2014

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Appendices

Appendix A - Corporate Risk Register