

CORPORATE GOVERNANCE COMMITTEE

19 FEBRUARY 2016

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 against risks
 - b) Update on related matters:
 - Explanation of how the risk of significant cost arising from uninsured claims has arisen
 - The review and revision of the Risk Management Policy and Strategy
 - Counter Fraud Initiatives

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 which are owned by Directors and Assistant Directors.

The CRR is designed to capture strategic risk that applies either 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 and responsibilities for managing them. 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 added 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.
4. The key changes since the CRR was last presented to the Committee on 17th November 2015 are detailed below :

i. Removal of risk

Risk 5.2 (Environment & Transport) – Leicester and Leicestershire Enterprise Partnership (LLEP) -insufficient funding for transport schemes to deliver economic growth and LTP3 /Strategic Plan. Risk regarding match funding requirement for the Council.

The above risk has been downgraded from red to amber as the likelihood has reduced from 4 to 2 following the confirmation of future local growth funding in the Autumn 2015 Statement (further details to follow in the New Year).

As the risk score has been revised from 20 to 10, this risk has been removed from the Corporate Risk Register but it will continue to be monitored through the Environment & Transportation Departmental Risk Register.

5. At its meeting on 17 November 2015, the Committee requested that a presentation be provided on the following :


- Business Intelligence - 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 (Risk 3.3).



This will be undertaken as part of this agenda.





6. The most up-to-date position of the risks on the CRR is shown in the table below. The risks are numbered within each category. To maintain a full history of all risks, details of any risks removed are shown with their original risk reference number, at the end of the Corporate Risk Register (Appendix A).






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 horizontal arrow shows a there's not much movement expected in the risk;
- A downward pointing arrow shows there's expectation that the risk will be mitigated towards 'medium' and would likely be removed from the register;
- An upwards pointing arrow would be less likely but is possible, 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 Based on risks discussed at department's management teams during January 2016	Direction of Travel (Residual Risk Score over the next 12 months)
1. Medium Term Financial Strategy (MTFS)					
All	1.1	Risk around the MTFS including the ability to deliver savings	25	The Local Government financial settlement confirmed the extremely challenging financial position faced by the Council. Achievement of	 Expected to

		through service redesign and Transformation as required in the MTFS, impact of the living wage and other demand and cost pressures		<p>savings and demand management are essential components of the MTFS.</p> <p>A revised governance model including the creation of a 'Design Authority' (a small group of key people who will evaluate projects to ensure strategic alignment and the robustness of business cases before entry into the Transformation Programme) has now been implemented. A review of the Transformation Programme Design (constituent projects) will be undertaken following the MTFS update and a proposal setting out a re-baselined Programme was presented to Transformation Delivery Board on 28 January.</p>	remain high/red
CE	1.3	Funding and reputation risks: Community Infrastructure Levy (CIL) Regulations (1 April 2015) are now in force which restrict the pooling of section 106 contributions	15 (revised from 20)	The Infrastructure and Development Oversight Group met in November and has established a work programme to address issues around better coordination and management of developer contributions within the County Council. The next meeting is in February where the programme and timetable should be agreed.	 Expected to move to medium/amber
CR	1.4	The cost arising from uninsured risks increases	16	<p>The Council currently holds a reserve of £7.0m to pay for the costs of claims in periods that were either not covered by insurance or the original insurer has failed. An actuarial assessment of the Council's financial liability for these periods recently concluded, and provided a likely liability range of between £4.7m and £9.3m, with the largest proportion relating to the MMI period. Due to recent experience of MMI estimates tending to worsen rather than improve, the intention is to increase the reserve from the 2015/16 underspends.</p> <p>Further detail is provided below in paragraphs 7 to 19.</p>	 Expected to remain high/red

C&FS	1.5	Significant pressures on the children's social care placement budget, which fund the care of vulnerable children.	15	Number of processes are in place including: a) Revised decision making processes for children's cases are now in place to strengthen management controls b) Engagement with the Courts and Health commissioners about the most expensive placements to seek co-commissioned placements and reduce costs	 Expected to move to medium/amber
2. Health & Social Care Integration					
A&C	2.1	Care Act 2014 – Funding risk for 2016/17 and beyond	20	The overall allocation will be lower for 2016/17 and beyond. The final position will be clarified when Better Care Fund (BCF) guidance is received in January 2016. Nevertheless, there is a significant reduction in funding, as there are permanent posts currently being funded from the Care Act monies, and any reduction will have implications on achieving outcomes	 Expected to remain high/red
A&C	2.2	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 Sub risk: Impact on Adults & Communities Department as a result of the BCT left shift initiative	16	Full consultation on the BCT plan that was scheduled to commence in November 2015 following which final proposals would be developed has been delayed until March 2016 No change to previously reported position	 Expected to move to medium/amber
All	2.3	Challenges caused by the Welfare Reform Act 2012.	25	Government announced in November 2015 an intention to consult on transferring responsibility for Attendance Allowance to LA's. Current spending on Attendance Allowance nationally is £5bn	 expected to remain high/red

3. ICT, Information Security					
CR	3.1	Maintaining ICT systems and having the ability to restore services quickly and effectively in the event of an outage.	15	<p>Second 2015 test postponed until Feb 2016 to allow further consideration of what can be included in the bubble (this is a logically isolated part of the network that allows us to bring up a virtual "copy" of a large part of the infrastructure (in isolation) which is then capable of being tested for data completeness and functionality).</p> <p>Once the new data centre is up and running a full Disaster Recovery test will be undertaken. This will also provide an appropriate opportunity for departmental users to get involved in testing.</p>	 Expected to move to medium/amber
CR	3.2	Continuing risk of failure of information security.	16	New 3rd party software patch automation tool in place. This gathers information about patches and bundles them ready for testing (if appropriate) and deployment.	 Expected to move to medium/amber
All	3.3	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	A Business Intelligence pilot is underway. The residual risk and the approach to mitigation will be reviewed in light of the findings of the pilot.	 Expected to remain high/red
CR	3.4	Insufficient capacity to provide Information & Technology solutions.	16	Note : No change to previous reported position	 Expected to remain high/red
C&FS	3.5	Retention of children's case	16	Risk reviewed 23.10.15 with Caldecott Guardian. This risk will	

		files beyond Data Protection Act (DPA) requirements (as a result of legal advice)		continue to be reviewed.	Expected to remain high/red
4. Transportation					
E&T	4.1	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	Note : No change to previous reported position	 Expected to move to medium/amber
5. Partnership Working					
C&FS	5.1	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	Note : No change to previous reported position	 Expected to remain high/red
6. Commissioning & Procurement					
CR	6.1	The Authority does not obtain the required value and level of performance from its providers and suppliers	15	Note : No change to previous reported position	 Expected to move to medium/amber
7. Safeguarding					
C&FS	7.1	<u>Historic</u> : Evidence of previously unknown serious historic issues of child sexual exploitation (CSE) or abuse is	25	Two reports have been made to Corporate Governance Committee. Goddard to investigate Janner allegations, resulting in focus on the Council, increasing risk of reputational damage, and	 Expected to remain high/red

	identified.		significant financial impact	
	<u>Current:</u> The Council does not have the capacity to meet the demand on the CSE resources		Successful bid for funding from Office of the Police and Crime Commissioner (£1.3m). Improvement Programme being developed.	 <p>Expected to remain high/red</p>

The risk of significant cost arising from uninsured claims

7. At the meeting on 17 November, Members of the Committee asked the Director of Corporate Resources for more detail and to explain the history regarding insurance issues.

To meet the cost of claims that arise in periods where the County Council's insurer has either failed or no cover was in place, an uninsured loss fund was established. This fund is reviewed regularly to ensure that it is sufficient to meet the estimated cost of future liabilities. These liabilities are expected to arise from three separate periods in time, as detailed below.

Municipal Mutual Insurance

8. Leicestershire County Council was insured by Municipal Mutual Insurance (MMI) between 1969 and 1992. MMI entered administration in 1992 and since January 1994 has been the subject of a Scheme of Arrangement with its creditors. The solvency position of MMI has deteriorated since 1992, largely because of continued and higher than expected reporting of industrial disease type claims, particularly mesothelioma, and abuse claims. An adverse judgement in the Supreme Court on mesothelioma claims in March 2012 led to a pessimistic outlook for the company's future. In November 2012 the County Council was notified that there would not be a solvent run off of claims.
9. In order to restore the company's balance sheet, in April 2013, the Scheme Administrator imposed a 15% levy on all claims paid to date and on all claims yet to be settled. This required the County Council to make an initial payment of £2.2 million and meet 15% of the cost of new claims being paid out.
10. MMI's latest accounts show a significantly worsening position with actual claims exceeding the forecast made when the 15% levy was calculated. The balance sheet showed net liabilities of £114.6 million as at 30th June 2015 compared with £76.2 million the previous year and £28.9 million in June 2013.
11. In January 2016 MMI wrote to its' creditors to advise that, based upon the trend of new claims, the final levy is expected to be in the range of 15% to 34%. The County Council will be informed in April of the actual percentage for the second levy.
12. The County Council's actuarial review indicated that the expected levy is likely to be at the top end of the range. A 34% levy would require an immediate

payment of £2.9 million, with potentially another £3.8 million in contributions to future claims. Although this second amount will depend upon the level of claims actually arising relating to the County Council.

Independent Insurance Company Limited

13. Leicestershire County Council was insured with the Independent Insurance Company (IICL) between 1993 and 1997. In June 2001 IICL was placed in provisional liquidation and declared insolvent. Since this time legal liability claims have continued to be registered with the company, but payments for claims have been made by the County Council.
14. A scheme of arrangement was sanctioned by the High Court on 9th July 2015. In contrast to the MMI scheme, the IICL scheme will entail the payment of a final settlement to creditors rather than an on-going management and clawback levy approach employed by MMI.
15. PricewaterhouseCoopers LLP has established the Scheme as a means of making dividend payments to creditors in respect of their claims against the company. Initial indications are that Leicestershire County Council could receive up to 15 pence in the pound in respect of all outstanding claims. Once payment has been received Leicestershire County Council will have no further call on the company in respect of claims that have been incurred, but not reported.
16. To date the County Council has paid claims of £0.6 million that should have been met by IICL, equating to an expected loss of £0.5 million. The County Council's actuarial review highlighted the potential for further significant claims, but on a 'best estimate' basis there was not sufficient evidence to justify increasing the claim against the IICL. The ultimate level of loss under this scheme is likely to be significantly less than for MMI, as the County Council has always been responsible for paying the first £100k of claims.

Prior Periods

17. Prior to July 1964 there is no evidence that Leicestershire County Council had liability insurance, hence the County Council is responsible for paying claims.
18. The Local Government Act 1972 created the existing two tier system of counties and districts. Where the County Council took on responsibility for the relevant function it also took on the liabilities of the precursor authorities. Frequently no corresponding insurance cover was in place; hence any claims that do arise have to be met by the County Council in full.
19. The County Council's actuarial review estimated the value of claims that could still arise is likely to be in the range £0.9 million to £1.4 million.

Risk Management Policy and Strategy

20. The Council's Risk Management Policy and Strategy has been reviewed, and revised and was submitted as an appendix to the report on the Medium Term

Financial Strategy which was to be considered at Cabinet on 12 February and full Council on 17 February.

21. Within its Terms of Reference, this Committee has a responsibility to monitor the arrangements for the identification monitoring and management of strategic and operational risk within the Council. Therefore, the recommendation to Cabinet is to approve the Risk Management Policy and Strategy subject to consideration by the Corporate Governance Committee with delegation to the Director of Corporate Resources to amend it if necessary. A copy of the revised Policy and Strategy is included in Appendix B.

Other Risk Information

Counter Fraud Initiatives

Fraud Risk Assessment 2015/16

22. The principles of the CIPFA Code of Practice – Managing the Risk of Fraud Corruption (the Code) were adopted by the Committee at its meeting in November 2014. The Code recommends that local authorities identify and assess the major risks of fraud and corruption to the organisation. Our approach is to perform an annual fraud risk assessment and to use the results to direct anti-fraud resources and strategies accordingly. The County Council does not provide those services that have historically been considered to be at high risk of fraud, such as revenue and benefits. However, the change of emphasis from local government being a provider to a commissioner of services changes the risk profile of fraud, as well as the control environment in which risk is managed. More ‘at arm’s length’ delivery of services by third parties, for example, the voluntary/not for profit sector and personal control of social care budgets, means that more public money is entrusted externally, which may impact on the wider control environment. All of these changes are happening against a backdrop of continued depressed economic activity in which the general fraud risk (both external and internal) tends to increase.
23. Whilst publications such as Protecting the Public Purse (PPP) outline the main areas of fraud risk across local government, each authority’s risk profile will be different. Therefore a thorough fraud risk assessment for the County Council has been conducted taking into account areas identified in PPP, reports from the biennial National Fraud Initiative (NFI), and other risk areas identified through other intelligence and through benchmarking with other authorities.
24. Appendix C contains a summary level of the fraud risk assessment, with a corresponding risk score for each, based on the Council’s overall potential exposure (impact on service delivery, finance and reputation) and actual reported frauds of this kind. Scoring has been derived through discussions with individual service leads to give them the opportunity, annually, to consider whether scores remain reasonable or whether there have been any changes during the previous year that may lead to necessity to amend scores, e.g. known frauds, additional controls introduced, and increased or decreased metrics/values. For this year, new areas have been added to the Fraud Risk Assessment, for example Deprivation of Income (Residential and Non-

Residential Adult Social Care), Cyber Fraud / Crime, both highlighted nationally as emerging fraud areas. It is important to recognise that the assessment also captures non-financial fraud, an example being that a new category this time around surrounds the risk of theft of stock from the Registration Service (e.g. birth certificates) which could facilitate identity theft and subsequently other fraud, e.g. benefit fraud, immigration fraud.

25. Recognising fraud in this manner ensures there is a comprehensive understanding and knowledge about where potential fraud and bribery / corruption is more likely to occur and the scale of potential losses. This in turn will direct the Council's overall Anti-Fraud and Corruption Strategy and further allow the Council to direct counter-fraud resources accordingly. Consequently, this influences the internal audit annual planning process.

Assessment Tool - Managing the Risk of Fraud and Corruption

26. To enable organisations to assess and understand their performance against recognised good practice as set out in the aforementioned Code, during the last quarter, the CIPFA Counter Fraud Centre published an Assessment Tool. The outcomes from an assessment enable organisations to inform counter fraud development plans and support governance statements.
27. The outcome of Leicestershire's assessment was positive and reflects well on the significant work undertaken within the Council, and in conjunction with this Committee in particular, over the past 18 months to further develop its fraud strategies and resilience. The Assessment concludes that:

The organisation is meeting the standard set out in the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption. The leadership has acknowledged its responsibilities for managing the risks and it has robust arrangements in place to identify and manage risks. It has a counter fraud strategy, backed up by the resources and arrangements in place to carry it out. The organisation is proactive in managing fraud and corruption risks and responds effectively. Stakeholders can be confident in the approach taken by the organisation and meeting the standards of the counter fraud code contributes to good governance. Whilst no organisation is 'fraud proof', the organisation has taken robust steps to ensure its resilience. This high level of performance should be acknowledged within the organisation's annual governance report.

The Assessment has identified a number of further areas for development and these will be addressed accordingly. These include the development of a Loss Recovery Strategy. A summary of outcomes and recommendations coming out of the Assessment can be found at Appendix D.

Loss Recovery Strategy

28. At its meeting of 20 February 2015, the Committee approved the Council's Anti-Fraud & Corruption Strategy and a number of supplementary counter fraud policies. Benchmarking against recommended practice gives assurance that the Council's policies are comprehensive and fit-for-purpose. One area,

however, where policy is inadequate is that there is no formal loss recovery strategy in place. A Loss Recovery Strategy has been drawn up in conjunction with the County Solicitor and agreed with the Director of Finance and will become an appendix to the existing Anti-Fraud & Corruption Strategy. The Strategy sets out the range of actions that the Council might take to recover financial loss in the event of fraud, corruption or financial irregularity. In particular the Strategy seeks to distinguish between criminal action (retribution) and civil recovery action (restitution), and discusses the relative advantages of each. Whilst each case would be judged on its own merits, and the need to be proportional and pragmatic in approach, the Strategy nevertheless provides a pathway for further action in line with the Council's zero-tolerance approach to all forms of fraud, corruption and theft.

Other

29. Work has taken place during the last quarter alongside the Corporate Commissioning & Procurement Support Unit to assess procurement risk within the Council using the CIPFA Counter Fraud Centre's - Managing the Risk of Procurement Fraud guidance as a benchmark. This process has identified both existing good practice and areas for improvement. An action plan has been drawn up, owned by the Corporate Commissioning & Procurement Support Unit, to address any areas of vulnerability and therefore to improve the Council's resilience to the risk of procurement fraud.
30. As part of a successful joint bid by the County Council, the City Council and Leicestershire's districts for DCLG funding for counter fraud initiatives, a counter fraud application (app) for smartphones has now been developed. This app enables the Council to convey fraud information to the general public, for example success stories, but, more importantly, enables the general public, through the app, to make fraud referrals through to the Council. The success of the app relies on effective publicity and the intention is to do this through press releases and other outlets such as Leicestershire Matters. Whilst Leicestershire's app is ready to go live, some neighbouring councils are not so far advanced with their fraud apps and therefore the County Council will delay the go live so as to have a joined up approach with other partners, including a co-ordinated media strategy, at an appropriate time.

Recommendation

31. That the Committee:
 - a) Approves the current status of the strategic 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;
 - c) Notes the :
 - o explanation of how the risk of significant cost arising from uninsured claims has arisen

- content of the revised Risk Management Policy and Strategy
- results of the 2015/16 Fraud Risk Assessment;
- results of the Counter Fraud Assessment Tool and that the organisation is judged to be meeting the standard set out in the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption;
- development of a Loss Recovery Strategy and its inclusion as an appendix to the published Anti-Fraud & Corruption Strategy;
- other counter fraud initiatives that have taken place during the last quarter.

Resources Implications

None.

Equality and Human Rights Implications

None.

Circulation under the Local Issues Alert Procedure

None

Background Papers

Report of the Director of Corporate Resources – ‘Risk Management Update’ – Corporate Governance Committee, 20 February, 12 June, 25 September and 17 November 2015

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Appendices:

Appendix A - Corporate Risk Register
Appendix B - Risk Management Policy & Strategy
Appendix C - Fraud Risk Assessment 2015-16
Appendix D – Summary of Outcomes and Recommendations from CIPFA Counter Fraud Centre Assessment Tool