



CORPORATE GOVERNANCE COMMITTEE

17 NOVEMBER 2017

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:
 - The Corporate Risk Register (CRR) – an update on risks;
 - Emerging risk - Insurance claims

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.
3. 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.
4. 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.
5. The key changes since the CRR was last presented to the Committee on 22 September 2017 are detailed below:

Risks Added:

The details of the risks added are summarised below. Further details are shown in paragraph 8 (table):

- Risk 2.5 (CR) - Health & Social Care Integration

If Health and Care partners fail to deliver the local integration programme in accordance with national Better Care Fund (BCF) policy, within the financial envelope of the BCF pooled budget and by meeting national metrics then elements of BCF funds could be withheld.

- Risk 11.1 (E&T) - Environment

If the Authority fails to manage Ash dieback (Chalara) at a local level, then it could be exposed to financial, reputational, and environmental risks.


6. At its meeting on 22 September 2017, it was agreed that as part of the Corporate Governance Committee meeting on 17 November 2017, there would be a presentation on the risks relating to :




i. Property and occupants risk management.





7. 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 CRR (Appendix A).



8. 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 that not much movement is expected in the risk;
- A downward pointing arrow shows that there is an 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 October 2017	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 through service redesign and Transformation as required in the MTFS, impact of	25	<u>MTFS</u> The MTFS will be reviewed during the autumn and informed by the following announcements: <ul style="list-style-type: none"> ○ Budget in late November. This may give an indication of the scale of the challenge faced by local government. ○ The local government 	 Expected to remain high/red




		the living wage and other demand and cost pressures.		<p>finance settlement (expected to be late December).</p> <p>However, the expectation is that with a further year of austerity, and additional pressures, the identification of new savings will be very challenging.</p> <p>The Council has approved to participate in the 100% business rates retention pilot programme for 2018/19.</p>	
CE	1.3	If S106 monies for the Council as a whole are not managed properly then there could be financial risks as well as legal challenges.	16	The Planning Obligations Policy review is slightly behind schedule and may be affected by the Autumn budget statement.	 Expected to move to medium/amber
CR	1.4	If claims relating to uninsured risks materialise or continue to increase then LCC will need to find increased payments from reserves, impacting on funds available to support services	16	See Emerging risk (paragraph 9).	 Expected to remain high/red
C&FS	1.5	<p><u>Social Care:</u> If the number of high cost social care placements (e.g. external fostering, residential and 16+ supported accommodation) increases (especially in relation to behavioural and CSE issues) then there may be significant pressures on the children's social care placement budget, which</p>	25	<p>Children and young people requiring residential placement continues to increase. This now stands at 66 (October 2017). A significant increase is in high cost placements. 27 are children that are open to Children's Disability Service. This is an 80% increase over 4 months.</p> <p>Review of recruitment of fostering placements either foster carers or through independent fostering agencies work has been completed with next step actions agreed.</p>	 Expected to remain high/red



		funds the care of vulnerable children.			
C&FS	1.6	<u>Education:</u> If the provision of support to high needs pupils (including SEN placements) cannot be reduced, then required savings against this budget will not be achieved	20	The High Needs Project Board has a clear strategy for reducing spend. This includes increasing provision across the county to meet assessed need in particular areas and ensuring the continued effectiveness of robust assessment.	 Expected to remain high/red
2. Health & Social Care Integration					
All	2.2	LLR Sustainability and Transformation Plan (STP) does not lead to the improved outcomes for health and wellbeing of residents, better care and quality of services, and financial sustainability. Sub risk: Impact on County Council as a result of the shift from acute care to community care	16	Additional concerns have been raised by Leicester, Leicestershire and Rutland authorities as to the transparency of the STP process in terms of financial viability and service improvement. These concerns are being addressed through high level political discussions. There is potential for the risk's likelihood rating to be increased if matters are not resolved. See above	 Expected to increase  Expected to increase
All	2.3	Challenges caused by the Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016.	16	Despite concerns voiced by the opposition that it must pause the roll-out of Universal Credit, the Government is pressing ahead with the latest phase of the programme. Following the presentation to the Corporate Governance Committee (22nd September 2017) on Welfare Reform, the Director of Adults & Communities reported that there had been concern that the welfare reforms would result in an increased demand on social care packages, and that whilst the aim of the reforms was to encourage claimants to find employment in	 Expected to remain high/red


				<p>reality they would struggle to enter the employment market and therefore have a reduced income. However, to date there was no evidence that either of these concerns had become reality and in view of this, the specific risk to Adults & Communities Department has been reduced from a high level (Current Risk Score of 16) to medium (12) in its risk register although monitoring of the impact of the welfare reforms would continue to take place. Work is planned to take place to further assess the impact of the welfare reforms on young people, and families to determine the Authority's policy approach.</p> <p>Given the uncertainty and problems associated with universal credit (the six-week wait to receive payments, rising indebtedness, rent arrears and evictions) which impoverishes large numbers of individuals, families and children, the risk will be retained on the Corporate Risk Register.</p>	
CR & A&C	2.4	<p><u>Help to Live at Home (HTLAH)</u></p> <p>If the domiciliary care market does not have the capacity to provide high quality services to local residents within the county, then people may not receive services to meet their needs</p>	16 (Reduced from 20)	<p>The third round of procurement has been completed and new providers will commence on 6th November.</p>	<p style="text-align: center;"></p> <p>Expected to move to medium/amber</p>
CE	2.5	<p>If Health and Care partners fail to deliver the local integration programme in accordance with national Better Care Fund (BCF) policy, within the financial envelope of the BCF</p>	16 (New)	<p>The BCF Plan was submitted to NHS England (NHSE) on 8th September. During the regional and national assurance stage, there was a risk that the Plan could be either 'approved with conditions' or 'not approved' due to the Plan not meeting the national condition to reduce Delayed Transfer of Care (DTC) by 3.5% by November 2017. Following discussions with</p>	<p style="text-align: center;"></p> <p>Expected to move to medium/amber</p>

		pooled budget and by meeting national metrics, then elements of BCF funds could be withheld.		NHSE the DTOC target was amended to meet the national conditions. It is currently not clear if the target will be achieved by November (actual figure will be reported in January 2018). There may be financial consequences for not achieving the target. An initial risk assessment is being undertaken by the County Council, although it is not yet clear the scale of the BCF funding that would be at risk, the analysis will consider the Improved BCF (Social Care allocation) and the overall Clinical Commissioning Groups contribution into the BCF pooled budget, and what mitigation could be applied in the short term. If BCF funding is placed at risk, this will impact the ability to deliver the Plan and is reflected in the revised risk rating.	
3. ICT, Information Security					
CR	3.2	If the Council fails to meet the information security and governance requirements then there may be breach of the statutory obligations	16	<p>90% of the work improving perimeter security has now been completed. The remaining 10% covering the lowest risk services will be completed by the end of December 2017. It is important to note this is an enhancement recommended by the Public Services Network (PSN) which is the government's high-performance network, which helps public sector organisations work together, reduce duplication and share resources.</p> <p>Training on Information Security and Data Protection is being actively rolled out and monthly reports are being reviewed by the Information Assurance Group. Current compliance with training is 66% across the Authority. Target for compliance is 90%.</p> <p>The findings from the Information Commissioner's Office (ICO) Audit in September 2017 will provide momentum towards the New European Union General Data Protection Regulations. The final ICO report will be available on the 10th November and an action plan will then need to be</p>	 Expected to increase

				put in place.	
All	3.3	If there is a failure to provide business intelligence required to support transformation, inform commissioning, and strategic planning and to complete statutory returns then policy will not be evidence based.	15	<p>The Mosaic* upgrade has now taken place and new suite of reports is available. Data quality reports have been developed to sit alongside performance reports and made available through Tableau. A new reporting Board will be set up to monitor progress on data quality issues.</p> <p>* IT system where children's social care data is stored and the system to generate performance reports and various statutory returns</p>	 Expected to move to medium/amber
All	3.5	If the Council fails to maintain robust records management processes to effectively manage information under its custodianship, personal data may not be processed in compliance with the Data Protection Act 1998 resulting in regulatory action and/or reputational damage.	15	<p>A project team (overseen by the Director of Law and Governance) met in October to commence the process of documenting the complete position with regard to historical file retention across the Departments concerned and then determine the resource requirements to support the project moving on to :</p> <ul style="list-style-type: none"> • review of files that have been moved off site where the review / destruction date is in the past and • indexation of files that are still outside of the records management system 	 Expected to remain high/red
4. Commissioning & Procurement					
CR	4.1	If the Authority does not obtain the required value and level of performance from its providers and suppliers then the cost of services will increase and service delivery will be impacted.	15	<p>Work is progressing to identify different types of contracts and their relative importance to the business so that appropriate KPI's can be developed.</p> <p>Training for Contract Managers is currently on hold until the Single Outcomes Framework has been agreed.</p> <p>A supplier reduction exercise has been completed resulting in the identification of the Council's top 200 suppliers. Renegotiations have commenced with suppliers to</p>	 Expected to move to medium/amber

		European Union			
7. People					
CR (ALL)	7.1	If sickness absence is not effectively managed then staff costs, service delivery and staff wellbeing will be impacted	16	<p>The Intensive Project Support initiative commenced on the 1st August 2017 and there has been positive feedback so far; however there have been delays in recruitment. This initiative aims to provide targeted support to Managers in specific areas to improve skills, knowledge and confidence in addressing attendance management issues and reduce absence.</p> <p>First draft of the Increment Policy is to be discussed with trade unions in October 2017.</p> <p>The Absence Management Triage Pilot commenced in April 2017. The Project is at an early stage and therefore there is not enough information to assess business intelligence.</p>	 Expected to move to medium/amber
C&FS	7.2	If C&FS is unable to recruit and retain skilled staff promptly (social workers and team managers) then some services will be over-reliant on the use of agency staff resulting in budget overspends and poor service delivery	25	Although adverts for social work posts have been posted on-line, it is proving difficult to recruit to Team Manager posts within First Response and Child Protection Teams as there are a limited number of social workers applying for posts.	 Expected to remain high/red
8. Business Continuity					
CR	8.1	If suppliers of critical services (e.g. HTLAH) do not have robust business continuity (BC) plans in place then the Council maybe unable to deliver services.	20	<p>New Resilience and Business Continuity Manager has recently been appointed and has identified the following areas where further work is necessary:</p> <ul style="list-style-type: none"> ➤ Clarification of contract requirements (new and renewals) to ensure that legacy suppliers provide evidence of business continuity or disaster recovery plans ➤ Improving communications between Procurement & Commissioning and the Resilience Team regarding 	 Expected to remain high/red

				<p>notification of new contracts.</p> <p>➤ Strengthening requirements for time limits and procedures for non-compliance to ensure that on award of contract, the successful supplier(s) will be expected to complete a full Business Continuity questionnaire and provision of a BC plan.</p>	
9. Health & Safety					
E&T	9.1	If the Service is unable to recruit appropriate skills / resources to implement Audit recommendations then service users' safety is at risk as well as financial and reputation consequences.	15	<p>A new risk assessment process has been designed and introduced to provide a consistent approach to the assessment of risk linking to Education and Healthcare Plan, school, parent and driver experience and commentary and this information has been shared with driving and escort staff to identify passengers key needs and support requirements.</p> <p>Resources are in place to tackle the backlog of outstanding risk assessments and it is anticipated that this task will be completed by the end of January 2018. A new process is in place covering existing assessments requiring review and update.</p> <p>A new training coordinator was appointed in summer 2017 to deliver additional training to providers as identified by risk assessments.</p> <p>Progress against the recommendations (denoted as high Importance) is provided regularly through the Internal Audit Service Progress report.</p>	 Expected to move to medium/amber
10. Highways Network – Winter Maintenance					
E&T	10.1	The absence of a depot in the North East of the County may impact on the delivery and the cost of the Winter Maintenance programme for 2019/20	16	<p>Alternative locations are being actively considered and the latest position is that following the initial costing, the site at Melton Commercial Park is cost prohibitive. A further feasibility study has been undertaken at Sysonby Farm, resulting in a decision to progress the preparation of a planning application for the temporary</p>	 Expected to move to green

				location of the winter maintenance facilities in the current established hard standing area of the old farm. As an alternative option to Sysonby Farm, an opportunity of using the Melton Borough Council depot is being investigated including planning consent around night use, depot layout, access arrangements and a tenancy agreement with the Council.	
11. Environment					
E&T	11.1	If the Authority fails to respond and manage Ash dieback (Chalara) at a local level, then it could be exposed to financial, reputational, and environmental consequences	15 (New)	A cross Departmental project team has been established which will consider the Council's approach, including the development of a strategy to deal with Ash dieback on the basis of the initial survey work undertaken to assess the current extent and progress of the disease in Leicestershire. The Corporate Management Team has agreed to the ongoing work (an increased tree inspection regime for next Spring – Autumn season).	 Expected to move to medium/amber

Emerging Risk

Insurance claims

9. An abuse case involving foster carers in Nottinghamshire was decided in the Supreme Court on 18th October. The judgment decided that local authorities do not owe a child in foster care a non-delegable duty of care i.e. an obligation that cannot be outsourced to a third party. However, a local authority can be held vicariously liable for the wrongful actions of foster parents to a child in foster care. This means that local authorities are liable, even though they themselves are not at fault, for injuries to foster children caused by the negligence or deliberate acts of foster parents.
10. The result is a finding of no fault liability applicable to all local authorities with a responsibility for children in care. Thus local authorities will be vicariously liable for the acts committed by their foster parents no matter how good the local authorities' procedures are for assessing and approving the foster parents or monitoring and supervising the placements.
11. The above coupled with the fact that the Supreme Court has previously decided to alter the treatment of deliberate assaults under the limitation regimes means that there is potential for a large influx of claims against local authorities. All claimants will have to prove is that, on the balance of probabilities, abuse occurred.

12. There are a number of further consequences that could flow from this change in the legal landscape: -

- a. The judgment will likely result in an increase in premium costs for local authority business and may threaten the participation of insurers in an already tight market place.
- b. The case may result in the Municipal Mutual Insurance Scheme of Arrangement (SoA) disintegrating. Foster care cases will be very specific for authorities with a responsibility for children's services. It is likely that the increased numbers of claims will result in a further levy or levies. Any public body without an exposure to this type of claim is likely to reach a point where they will re-consider participation in the SoA. Should the scheme fail Leicestershire County Council will be left having to pay 100% on any claims involving foster carers.
- c. Foster carers may make use of this judgment in order to support their argument that they should be classified as 'workers' giving them additional rights of employment in the service of the County Council such as holiday pay, sick pay, pension rights etc. If this becomes the established position, there will be an immediate increase in costs to local authorities, possibly backdated.
- d. This case could result in local authorities becoming risk averse and defensive in the use of foster carers as it strikes at the heart of what a foster caring arrangement is intended to achieve i.e. placement in the family environment. Local authorities will have to incur the cost of tightening the control regime in place. Alternatively there may be a move back toward the use of children's homes as a more controlled space.

13. All-in-all this decision represents very bad news for all upper tier authorities and has the potential to result in significant additional costs.

Recommendation

- a) That the Committee:
 - a) Approves the current status of the strategic risks facing the County 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) Note the emerging risk.

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, 19 February 2016, 13 May 2016, 23 September 2016, 25 November 2016, and 17 February 2017, 26 May 2017, 22 September 2017.

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Appendices:

Appendix A – Corporate Risk Register

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