**Leicestershire County Council**

## CORPORATE GOVERNANCE COMMITTEE - 25 JULY 2018

## REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

## RISK MANAGEMENT UPDATE

### Purpose of Report

1.  One of the key roles of the Corporate Governance 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
    - Counter Fraud Update
    - Insurance update
    - Risk Maturity Health Check

### 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.

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.  Movements since the CRR was last presented to the Committee on 23 April 2018 are detailed below.

**Risks Added**

- Risk 1.7 (Corporate Resources) – If the Council fails to be non-compliant with HRMC IR35 regulations regarding the employment of self-employed personnel then there is a risk of significant financial penalties.
- Risk 1.8 (Corporate Resources) - If public sector partners and major providers of services to the public sector get into financial difficulties there could be an impact on both the Council's financial position and services.

**Risks Removed**

- Risk 10.1 (Environment &Transport) – Winter Maintenance

  The absence of a depot in the North East of the County may impact on the delivery and cost of the Winter Maintenance Programme for 2019/2020.

  The Department has reduced the impact and likelihood scores leading to a reduction in the current risk score from16 to12.  Property Services are progressing with completion of planning consent for Sysonby Farm by March 2019.  The Department are working on a build programme to deliver the new facility before the end of September 2019.

  Removal of the risk from the CRR at this point was queried because of the length of time to obtain planning consent, but assurances were received from the Director that the risk will be managed within the Environment and Transport Departmental Risk Register.

- Risk 2.4 (Adult &Communities) – Domiciliary Care

  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.

  The Help To Live At Home (HTLAH) project is now closed.  This risk was closed and formulated into a market sustainability risk for the Department.  The current risk score for the social care market is 12 and the risk is being managed within the Adults and Communities Departmental Risk Register.

**Risks Reworded**

- Risk 3.6 – Oracle Enterprise Resource Planning (ERP) system risk has been slightly reworded to reflect the potential impact on resources (financial and people (HR)) management.

- Risk 9.1  – Ash dieback

  If the ash dieback disease causes shedding branches or falling trees then there is a possible risk to life and disruption to the transport network.

6.  At its meeting on 23 April 2018, it was agreed that as part of the Corporate Governance Committee meeting on 25 July 2018, there would be a presentation on Risk 3.6 - If a replacement Oracle ERP system is not implemented successfully the Council will not reap the benefits, and the Council's financial and human resource activity could be negatively impacted upon.

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.   The full CRR is attached as an appendix to this report.

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.  A horizontal arrow shows that not much movement is expected in the risk;
    b.  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;
    c.  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 May 2018 | Direction of Travel (Residual Risk Score over the next 12 months) |
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| 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 the living wage and other demand and cost pressures. | 25 | MTFS Recent announcements by the Government to award additional funding to the NHS are likely to put other Government Departments such as Ministry of Housing, Communities and Local Government under pressure with the result that local government funding will continue to be restricted or further restricted.<br><br>Transformation Transformation Unit is working with all Departments to continue to deliver existing savings targets and to identify new opportunities for savings through the development of relevant business cases. | Expected to remain high/red |

| | | | | | |
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| | | | | The development of a business case for the Early Help Review (including Children's Centres) has been rescheduled following the conclusion of a consultation process and will be reported to the Transformation Delivery Board in September. | |
| CE | 1.3 | If S (106) monies for the Council as a whole are not managed properly then there could be financial risks as well as legal challenges. | 16 | MASTERGOV software has now been installed and is being tested for monitoring and output reporting. The aim is to make it easier to identify elements of funding and their potential/actual use.<br><br>A review of S (106) will take place over the Summer and the results reported to Cabinet in September. | 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 Insurance update | Expected to remain high/red |
| C&FS | 1.5 | Social Care: 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 | 20 | Note: No change to previously reported position. | Expected to remain high/red |

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| | | children's social care placement budget, which funds the care of vulnerable children. | | | |
| C&FS | 1.6 | Education: 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 | 16 (score reduced from 20) | The High Needs Project Board has developed 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. Activities already undertaken have had a positive impact on reducing the budget deficit. This work is now being overtaken by the Sufficiency Provision and Inclusion project. | ⟷ Expected to remain high/red |
| CR | 1.7 | If the Council is not compliant with the HRMC IR35 regulations regarding the employment of self-employed personnel then there is a risk of large financial penalties | 20 (new) | A recent tax specialist report identified that the Council could be non-compliant against the regulations with regard to self-employed personnel.  A report has been prepared for Chief Officers. Whilst there is a policy and guidelines in place with tax expert advice available, there is a need to further develop this area. Further mitigations identified are : • Establishment of a central control point • Development of guidance and training and improved comms for managers. • Review of all current identified posts separate from the Reed Employment to identify issues • Improve standard of checks available from other agencies | ⬇ Expected to move to medium/ amber |
| CR | 1.8 | If public sector partners and major providers | 16 (new) | The Council is linked to the wider public sector in a number of ways. These include trading | ⬆ Expected to |

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| | | of services to the public sector get into financial difficulties there could be an impact on both the Council's financial position and services | | arrangements, joint provision of services and interdependencies in terms of the supply chain. Partners include health service organisations, schools, police, fire and other councils. All parts of the public sector are facing financial challenges with consequences for the County Council.<br><br>The following mitigating actions are being considered :<br><br>• Extra resources will be put in place to assess the financial health of maintained schools (and academies) and the financial planning service enhanced to support them.<br>• Continued use of credit weightings to inform decision making but also take into account their limitations.<br>• Monitoring of key partner organisations including regular dialogue. | |
| **2. Health & Social Care Integration** | | | | | |
| All | 2.2 (i) | NHS Leicester, Leicestershire and Rutland's (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. | 16 | The County Council raised concerns about the current governance and viability of the STP and has determined not to be a signatory to a further draft plan. The NHS has decided not to publish a further plan but to promote partnership activity under the Better Care Together banner. Progress with any sort of medium term local NHS plan is largely dependent on the award of significant capital funding for which a business case is being prepared.<br><br>NHS commissioning arrangements are now under | Expected to remain high/red |

| | (ii) | Sub risk: Impact on County Council services due to the risk of the local NHS being unable to manage demand and achieve financial balance in the current financial year. | | review. Increased risks in relation to: <br>• Setting and delivering pooled budgets between Clinical Commissioning Groups (CCGs) and LA (including Better Care Fund (BCF)) due to increasing CCG activity levels, financial pressures, and larger savings targets <br>• risk to delivering BCF metrics such as Delayed Transfer of Care and Non elective admissions due to increased demand on the health and care system <br>• potential policy risks linked to new NHS funding requirements (when known) and the delays to the green paper on Adult Social Care. | ⇧ <br>Expected to increase |
| All | 2.3 | Challenges caused by the Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016. | 16 | Work has progressed on this risk as follows: <br>• Engagement with Departments to raise awareness of welfare reform risks and Officers now to consider impacts on individual departments. <br>• Departments will identify any specific risks (welfare reform related) and retain and monitor via individual departmental risk registers | ⬌ <br>Expected to remain high/red |
| 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 | With regard to training on Information Security and Data Protection latest data on LMS shows 77% compliance. New data protection policy on training has been agreed. Application of the policy is likely to reduce the number of people required to complete mandatory e-learning. New General Data Protection Regulation (GDPR) mandatory e-learning has been launched. | ⬇ <br>Expected to move to medium/ amber |

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| | | | | Phase 1 milestones set for GDPR compliance have been met. The areas where work is being progressed relates to the completion of asset registers and issue of contract variations. Phase 2 planning is now underway.<br><br>With regard to the implementation of the Information Commissioners Office (ICO) Audit Improvement Plan, 94% of actions have been completed and the remaining actions (6) are on track for completion. | |
| 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 | The physical organisation of file management has been flagged as a significant issue under GDPR. The scale of work to be undertaken has been scoped and will be reported to Chief Officers to consider the proposed approach. | Expected to move to medium/ amber |
| CR | 3.6 | If a replacement (ERP) system is not implemented successfully the Council will not reap the benefits and | 20 (score increased from 15) | Implementation phase of the project has commenced with meetings with the implementation partner. Lead resource for all the work streams is in place.<br><br>More information will be | Expected to move to medium/ |

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| | | the Council's financial and HR activity could be negatively impacted upon | | provided in the presentation to Committee. | amber |
| C&FS | 3.7 | If the quality of data in Children and Families (C&FS) Information Management System is too low to satisfy statutory requirements (e.g. data returns) this will impact upon service delivery | 20 | Regular meetings regarding data quality are being held to cover priorities over specific areas. | ⬇ Expected to move to medium/ amber |
| 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 | Proposals for the Corporate Resources contracts dashboard (covers high risk and value business critical contracts) are going to be presented to the Corporate Services Management Team for approval.  Once approved, the dashboard will be populated in line with Contract Managers contract quarterly reviews.<br><br>Good progress has been made with regard to the rollout of training to contract managers. Further training is scheduled once the new tool kit is developed and rolled out.<br><br>Savings (£250k) identified in the MTFS have been delivered against the target for 2017/18. On track to deliver a further £250k by the end of 2018/19. | ⬇ Expected to move to medium/ amber |
| E&T | 4.2 | If Arriva is successful in its | 15 | Adjudicator has been appointed and advised. Arriva has | ⬇ |

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| | | concessionary travel appeal then reimbursement costs for the total scheme could increase significantly. | | submitted two further appeals against the 2018/19 scheme and a decision note on pros and cons of agreeing immediate stays for information by Arriva in light of the appeal requested by Department for Transport. This appears to be a national concern as Derbyshire and Shropshire have both reported the same approach. As previously reported the maximum risk for the Arriva appeal remains at £916,000. | Expected to move to medium/ amber |
| **5.    Safeguarding** | | | | | |
| C&FS | 5.1 | Historical: If as a result of a concerted effort to explore abuse by the Independent Inquiry into Child Sexual Abuse (IICSA) and Police Operations, then evidence of previously unknown serious historical issues of child sexual exploitation (CSE) or abuse is identified | 25 | IICASA has indicated that the Janner Investigation Public Hearing will not be held before April 2019. | Expected to remain high/red |
| **6.    Brexit** | | | | | |
| All | 6.1 | Uncertainty and significant knock on consequences on public services (including potential legal, regulatory, economic and | 16 | Initial scoping work will be reported to Chief Officers in July. This will distinguish between the risks to the County Council as a service provider and the risks to the local economy. A reassessment of the risk level will be considered by Chief Officers. | Expected to remain high/red |

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| | | social implications), and the local economy as a result of the United Kingdom leaving the 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 | The Intensive Support Project is ongoing. Part 2 of the training on mental health and stress is current being delivered. HR advisors are now contacting Managers to provide support as soon as staff with mental health issues are identified. Two new services are now receiving intensive support - Recycling Waste (E&T) and Customer Service Centre (CR). The Absence Management Policy will be revised and consultation with the unions will start shortly. | ⬇ Expected to move to medium/ amber |
| All | 7.2 | <u>Recruitment and retention</u> If departments are unable to recruit and retain skilled staff promptly then some services will be over -reliant on the use of agency staff resulting in budget overspends and poor service delivery | 25 | <u>C&FS (risk score =25)</u> No change to previously reported position. <u>E&T (risk score =12)</u> The Departmental Management Team (DMT) has reduced the level of risk (to Amber) as a result of the positive recruitment projects being delivered as part of the Department's workforce plan. <u>A&C (risk score =16)</u> The rates of pay are not competitive for certain posts resulting in recruitment difficulties. | ⬌ Expected to remain high/red |
| **8. Business Continuity** | | | | | |

| CE | 8.1 | If suppliers of critical services do not have robust business continuity plans in place, the Council may not be able to deliver services. | 20 | Not all contracts are procured through the Corporate Commissioning Unit (CCU). A detailed report on current practices and concerns to be submitted to Chief Executive's DMT seeking guidance on further action. | Expected to remain high/red |
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| 9. Environment | | | | | |
| E&T | 9.1 | If the ash dieback disease causes shedding branches or falling trees then there is a possible risk to life and disruption to the transport network | 15 | Cross departmental governance is in place and a draft Ash Dieback action plan has been produced and presented to Chief Officers in June and will go to Cabinet in July. The collection of condition data will begin end summer/early autumn. | Expected to move to medium/ amber |

## Counter fraud update

9.      The Head of Internal Audit and Assurance Service (HoIAS) along with financial accounting officers compiles statements each year to assist the External Auditor with its responsibilities relating to the risk of fraud in the annual audit of the financial statements. This is a requirement of International Standard on Auditing (UK and Ireland) (ISA 240).

10.     The ISA is very clear that the primary responsibility for the prevention and detection of fraud rests with both management and those charged with governance of the organisation. It is important that management, with the oversight of those charged with governance, place a strong emphasis on fraud prevention, which may reduce opportunities for fraud to take place, and fraud deterrence, which could persuade individuals not to commit fraud because of the likelihood of detection and punishment. This involves a commitment to creating a culture of honesty and ethical behaviour which can be reinforced though active oversight by those charged with governance.

11.     When performing risk assessment procedures and related activities to obtain an understanding of the Council and its environment, including its internal control, the External Auditor obtains information from management and the

internal audit function.  Further inquiries are asked of those charged with governance.  It is accepted practice that the HoIAS prepares the Committee's responses to these inquiries following consultation with the Chair of the Committee.  Due to the need to return these to the External Auditor in order for them to complete their audit, the HoIAS consulted with the proposed new Chair of the Committee on 6<sup>th</sup> July regarding this year's response.

## Insurance update

12.  Municipal Mutual Insurance (MMI) is currently engaged in a litigation process concerning the amounts it is able to recover from its reinsurance arrangements whilst it was in a position to write insurance business.  It has been working with its solicitors in relation to the presentation and allocation of mesothelioma reinsurance claims.  The essence being whether claims must be allocated proportionately to the period of exposure or whether claims can be 'spiked' into the single most advantageous reinsurance year with only one deductible applying rather than a deductible applying in each individual year of exposure.  Success would result in a significantly higher value for the reinsurance asset.

13.  Arbitration proceedings have been entered into against MMI's reinsurer Equitas.  The decision handed down was favourable to MMI on all grounds.  However, the Court of Appeal has since granted Equitas permission to appeal.  This case has significant ramifications for the wider insurance industry and thus is likely to go through to the Supreme Court in due course.

14.  MMI's management accounts as at 31<sup>st</sup> December 2017 note a contingent reinsurance asset of £31m should the litigation ultimately prove successful.  At present there is no indication that the rate of levy on claims is likely to change.  Success in the litigation will make such a possibility more remote.

## Risk Maturity Health Check

### Background

15.  The last independent external assessment of the Council's risk management arrangements and maturity was carried out in 2012.  The report concluded that in accordance with the ALARM National Performance Model for Risk Management in Public Services, the Council was between Level 2 - described as "Happening", and Level 3 - described as "Working", but there was recognition that resources were limited and that ambitions for the future must be realistic and achievable.  The target was set of achieving Level 4 – described as "Embedded & Working".  A number of recommendations contained in the action plan to the report were implemented in subsequent years.

16. A further detailed maturity review was undertaken (this was an internal assessment but the results were validated by an independent officer within the Council) and reported to this Committee in January 2015. This assessed the Council's level of risk maturity as between levels 3 "Working" and 4 "Embedded and Working" i.e. an improvement in maturity.

17. It was planned that a re-evaluation of the Council's risk maturity against ALARM guidance would take place on a three-yearly frequency (maximum) with the next review planned for December 2017. However, this was delayed and has been rescheduled to be undertaken in the late summer/early autumn 2018.

Current Position

18. In order to independently evaluate the Council's risk management arrangements against best practice, the HoIAS has agreed with the Director of Corporate Resources to approach Risk Management Partners (RMP), the managing agent of the Council's current insurers, in order to utilise some of the days it offers for risk management training. RMP are providers of insurance and risk management services to the public sector who develop and deliver effective risk advice, provide guidance, risk management reviews, health-checks, and training programmes. RMP will use their partner Gallagher Bassett (GB) to conduct the health check.

19. The health check is a multi-level assessment of the degree of maturity and effectiveness of the Council's current risk management practices. It is designed to provide a third-party perspective on the strengths of current practices and identify any perceived opportunities for potential improvement. It is based the HM Treasury document 'Risk Management assessment framework: a tool for departments' (July 2009) and is constructed using a series of pre-determined question sets. The question sets include the following components: -

    1) Leadership and management
    2) Strategy and policy
    3) People
    4) Partnerships, shared risks and resources
    5) Processes
    6) Risk handling and assurance
    7) Outcomes and delivery

20. It's proposed that the Director of Corporate Resources will 'sponsor' the health check to promote its importance. GB will firstly conduct a desk-top review of policy, reports, documents and guidance. As well as a series of scheduled one-to-one interviews with members, directors and other officers, a wider

engagement with the organisation can be achieved through the use of an online questionnaire which focuses upon selected elements of the health check.

21. On completion of the one-to-one interviews and online questionnaire process, a structured report will be formulated which will present the outcomes of both processes, seeking to identify the strengths of current risk management practices and any potential opportunities for improvement.

22. The health check review will need to be structured to ensure that it is tailored to the Council's specific needs. There are no financial implications to the Council other than officer and member involvement to attend a short interview and/or to complete the online questionnaire.

23. The timing of the review is scheduled through August/September with an intention to report back to the Committee in October.

**Recommendations**

24. That the Committee:

    a) Approves the current status of the strategic risks facing the County Council;

    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 updates now provided on counter fraud and insurance;

    d) Supports the approach to receiving an external assessment of the Council's risk management arrangements via the Council's insurers RMP.

**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, 19 February, 13 May, 23 September and 25 November 2016; 17 February, 26 May, 22 September and 17 November 2017; 29 January 2018 and 23 April 2018

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**<u>Appendix</u>**

Corporate Risk Register