



## **CORPORATE GOVERNANCE COMMITTEE – 31 MARCH 2025**

### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

#### **RISK MANAGEMENT UPDATE**

##### **Purpose of the Report**

1. One of the 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) – updates on risks
  - Emerging risk – Local Government Reorganisation
  - Counter Fraud Update

##### **Corporate Risk Register (CRR)**

2. Within the County Council's Constitution (revised December 2024), the Terms of Reference at Section 2: Governance and Risk places a responsibility on the Committee at 2.5, 'To review and monitor the effective development and operation of risk management in the Council including the Council's risk management framework'.
3. 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.
4. The CRR is designed to capture strategic risk that applies either corporately or to specific departments, which by its nature usually has a longer time span. 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 managed within the relevant departmental risk register.

5. Updates to the current risks on the CRR (last presented in full to the Committee on 6 December 2024), are shown in **Appendix A**. Following a recommendation by the Council's external auditor (Grant Thornton) in its Auditor's Annual Report 2022-23, column 2 shows that corporate risks are now aligned to the Council's Strategic Plan outcomes, i.e.: -
  - a. Great Communities (GC)
  - b. Clean and Green (C&G)
  - c. Improved Opportunities (IO)
  - d. Safe and Well (S&W)
  - e. Strong Economy, Transport & Infrastructure (SE, T&I)
  - f. All (A)

Risks which have been removed in the last two years, and a brief reminder of the risk scoring process are at the end of the appendix.

A more detailed update of the CRR (providing additional information on current and further controls/actions on how the risks are being mitigated), will be presented to a future meeting.

6. Movements since the CRR was last presented in full are detailed below: -

#### **Risk removed (24 January 2025).**

##### **1.11 CEx (Freeport)**

7. If transition to the operational stage were not finalised, then the County Council would not be fulfilling its role as lead authority and accountable body for the East Midlands Freeport.

Rationale: Assurance was provided that the process was sufficiently advanced in the 'transition to operational' that it would be safe to remove the risk, but it will continue to be managed at department level.

#### **Risks removed (31 March 2025).**

##### **1.7 CR (IR35)**

8. If the Council is not compliant with the HMRC IR35 regulations regarding the employment status for tax of self-employed personnel, then there is a risk of backdated underpaid tax and NI, interest and large financial penalties.

Rationale: The risk was reviewed in February and there is confidence that with regular reporting requirement established, improvements and declaration of compliance of IR35 are in place and part of BAU but it will continue to be managed at department level.

##### **9.6 E&T (Operator's Licence)**

9. If the Department fails to comply with the Operator's Licence, then the licence could be revoked/curtailed.

Rationale: Current Operator Compliance Risk Score (OCRS) is less than 1 and compliance is good overall, if events occur that may increase likelihood following incidents, audits or other events then this will be updated accordingly. The risk will continue to be managed at department level.

### **Risk added back (31 March 2025)**

#### **7.5 A&C (Demand for Assessments)**

10. If there is continuing increase in demand for assessments (care needs and financial) then it may not be met by existing capacity.

Rationale: There has been an increase in demand for community Care Act assessments over the past two quarters. This is increasing the number of people waiting for assessment and the likelihood of this risk, within the risk scoring, has been increased to reflect this.

### **Emerging risk – Local Government Reorganisation**

11. On 5 February 2025, the Minister of State for Local Government and English Devolution set out the formal invitation to the County Council (and all local authorities in two-tier areas and neighbouring unitary authorities) to develop a proposal for local government reorganisation and this requires interim plans to be submitted to the Government by 21 March 2025. In line with the invitation, the Council is developing the interim plan and will then expect to develop the final proposal for submission to the government by 28 November.
12. There is currently no local unanimity on the proposed way forward and it is expected that proposals will also be submitted by (1) the district councils and Rutland Council and (2) Leicester City Council.
13. The potential risk to Leicestershire could arise through the decision taken by Government not being the best solution for Leicestershire or through financial and service disruption during an implementation period.
14. Regardless of the Government's approach to the proposals submitted and its preferred way forward, there will follow a period of intensive work and demand on internal resources and short-term uncertainty and instability which will require mitigation. As the Government's intentions on the future arrangements become clearer, a detailed risk assessment will be required addressing the impact of reorganisation on the Council's financing and resources, priorities, service provision, governance arrangements and staffing.

### **Counter Fraud Update**

#### **Failure to Prevent Fraud**

15. The failure to prevent fraud offence will come into force on 1 September 2025, after having been introduced by the Economic Crime and Corporate Transparency Act 2023. Early information was provided to the Committee at its meeting on 22 September 2023 when the Bill was in its early stages.

16. The Government has created this new failure to prevent fraud corporate offence to hold organisations to account if they profit from fraud committed by their employees or other “associated persons” working on behalf of the organisation. Under the new offence, an organisation will be liable where a specified fraud offence is committed by an employee, agent or other “associated person”, for the organisation’s benefit, and the organisation did not have reasonable fraud prevention procedures in place. It does not need to be demonstrated that the organisation’s management ordered or knew about the fraud.
17. The Council is within the scope of the new legislation. Subsequently, an internal risk assessment has been undertaken, and it is considered that there is low risk due to the nature of its operations. The offence is created only where employee fraud directly benefits the organisation itself so is more geared to commercial sectors such as sales, e.g. corrupt sales practices leading to increased profits for the organisation concerned.
18. Organisations are likely to be able to avoid prosecution if they have “reasonable procedures” in place to prevent fraud. The Council has taken early steps to catalogue the wide range of counter fraud controls and processes in place to mitigate the risk of employee (insider) fraud or fraud committed by an “associated person” acting on behalf of the Council. These include mandatory fraud awareness e-learning, a defined declaration process for conflicts of interests, a formal whistleblowing channel and the operation across the Council of a robust internal control environment.
19. If convicted, an organisation can receive an unlimited fine. Courts will take account of all the circumstances in deciding the appropriate level for a particular case. The fine is corporate, however individual officers cannot be held personally liable under the new legislation. Individuals within organisations can already be prosecuted for committing, encouraging or assisting fraud but the new legislation will not be introducing individual liability for failure to prevent.
20. Some examples of what may and may not constitute an offence under the Act: -

<p>A local authority is seeking additional government funding for community projects. An employee in the planning department manipulates project reports to overstate the expected benefits and outcomes. The intent is to make the projects appear more attractive to secure additional funding.</p>	<p>The FTPF offence <u>is</u> relevant. The fraud intends bringing additional benefit to the local authority in the form of additional funding that it would not otherwise have received.</p> <p>The local authority does not necessarily have to be aware of, or complicit with, this to become liable for prosecution.</p>
<p>A local authority contracts a third-party service provider to manage waste collection. An employee of the</p>	<p>The FTPF offence <u>is</u> relevant. The fraud intends bringing additional benefit to the local authority in the</p>

<p>authority colludes with the service provider to falsify records indicating that waste collection targets are met when they are not. This allows the authority to avoid penalties for non-compliance with environmental regulations.</p>	<p>form of the avoidance of financial penalties.</p> <p>The local authority does not necessarily have to be aware of, or complicit with, this to become liable for prosecution.</p>
<p>A senior officer in the finance department of a local authority is responsible for approving payments to contractors. This official diverts funds intended for public projects to a personal account that records them as legitimate payments to contractors.</p>	<p>The FTPF offence is <u>not</u> relevant. In this instance the local authority is the <i>victim</i> of the fraud.</p>

21. Further information can be found in the HM Government factsheet - [Factsheet: failure to prevent fraud offence - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

### **Recommendations**

It is recommended that the Committee:

- a. Approves the status of the corporate and strategic risks facing the County Council;
- b. Makes recommendations on any areas which might benefit from further examination;
- c. Notes the emerging risk on Local Government Reorganisation;
- d. Notes the update on counter fraud.

### **Resource 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, 16 March 2023, 26 May 2023, 22 September 2023, 17 November 2023, 26 January, 20 May, 16 September and 6 December 2024 and 24 January 2025.

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**Appendices**

Appendix A - Corporate Risk Register Update (February/March 2025)