Agenda Item 8

Leicestershire County Council

CORPORATE GOVERNANCE COMMITTEE
24 NOVEMBER 2014

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. It covers:

   a) The Corporate Risk Register (CRR);
   b) Emerging Risks (on this occasion the one emerging risk around Ebola virus is covered in the section on business continuity) ;
   c) Business Continuity, Insurance, Counter-fraud initiatives.

Corporate Risk Register

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

3.   The key changes since the CRR was last presented to the Committee in September are:

   i.   Addition of new risks:

   - Risk 12 – Integrated Adults System (IAS) Project Phase 2 -There are risks (both operational and potentially non-compliance with the requirements of the Care Act) if the Council's systems are not kept up to date in a timely manner with the scheduled software releases from the suppliers.
   - Risk 13 – Retention of children's case files beyond DPA requirements
   - Risk 20 – Reduced recycling performance

   ii   Removal of risk:

   - Risk 14 – Impact of academy and secondary age conversion on home to school transport policy. Risks that the revised policy was anti-competitive for academies, and that costs would increase due to multi eligibility, have been removed. Transitional arrangements

agreed as part of the consideration of the new policy will provide education continuity.

4.   At its meeting on 23 September 2014, the Committee requested that a presentation be provided on the risks associated with the transition of Health Visiting from NHS England to local authorities, as detailed in the Corporate Risk Register (new Risk 6). This will be undertaken as part of this agenda.

5.   The latest assessment of the highest ranking risks is shown in the table below. Where a change has taken place to the current risk score a note is included.

Dept./ Function	CRR Risk No	Risk Description	Current Risk Score (incl changes)	Update	Direction of Travel (Residual Risk over the next 12 months)
Medium Term Financial Strategy (MTFS)					
All	1	Risk around the ability to deliver savings and efficiencies through service redesign and transformation as required in the MTFS.	25	New Transformation Unit structure in place (with vacancies). Risks remain around delivery of some projects (both phasing and overall achievement)	Expected to remain 'high/red'
C&FS	2	Cost of school sponsorship to LCC prior to conversion	16	Note: no change to previous reported position.	Expected to remain 'high/red'
Health & Social Care Integration					
A&C	3	Proposals in the Government's Care Act which provide for very significant changes and implications for Adult Social Care and the whole Council. (see Risk 4 for BCF)	25	Progress has been made in modelling the financial implications. The lack of accessible data continues to be a significant problem. The national costing model has been withdrawn and work is continuing using the Lincolnshire costing model with assistance from East Midlands Finance Group. The financial allocations risks identified in the August update remain. In order to mitigate them, a centrally managed contingency fund has been agreed with Corporate Finance.	Expected to remain 'high/red'

CE	4	Risk to Health and Care Partners failing to deliver integrated care to the local population (including via the Better Care Fund (BCF) plan	12 (*) (Reduced from 15)	The BCF plan was resubmitted by the deadline of 19th September to NHS England, and was 'approved with support' (have to supply additional evidence). Delivery continues through the production and approval of individual business cases for key elements of the BCF programme. Delivery highlights include: • 1st September Night Nursing Service Go Live • 1st October Older Person's Unit Go Live • The performance dashboard provides a comprehensive overview of progress. An element of the funding is based on payment by results. • Alignment has been achieved with the Better Care Together 5 year plan, and a Strategic Outline Case is currently being developed for November 2014. (*) The Programme risk register was considered by the partners and Clinical Commissioning Groups and the risk has been downgraded. This position was reflected within the BCF re-submission and is reviewed by the Integration Executive monthly. The Better Care Together Programme Risk Register is being developed.	Expected to remain medium/ amber
All	5	Challenges caused by the Welfare Reform Act.	25	The longer term risk remains significant with the Government continuing with its intention to make very large reductions in the welfare budget	expected to remain 'high/red'
PH	6	The transition of Health Visiting (from NHS England) to Local authorities	20	Note: no change to previous reported position.	Expected to remain 'high/red'

ICT, Information Security						
CR	7	Maintaining ICT systems and having the ability to restore services quickly and effectively in the event of an outage.	15	Disaster Recovery test strategy and plan signed off. First planned test completed successfully	⬇	Expected to move to medium/ amber
CR	8	Continuing risk of failure of information security.	16	The annual PSN submission for 2015 has been submitted. Other local authorities have reported long delays in receiving a response from the Cabinet Office. The new Information Security and Acceptable Use policy will be launched in mid-November in tandem with revised HR terms and conditions. The launch has been delayed to coincide with the release of the November 'Staff Matters' publication.	⬇	Expected to move to medium/ amber
All	9	Failure by LCC to ascertain, understand and manage increased demand for services will restrict implementation of effective strategies, impacting council wide priorities and delivery of the Transformation Programme.	15	Development of the Data & Business Intelligence governance framework and Target Operating Model is underway, the work programme has been signed-off and work has commenced.	⬌	Expected to remain 'high/red'

CR	10	Insufficient capacity to provide Information & Technology solutions.	16	Significant improvements to the Strategic Information &Technology (SI &T) work programme and process is underway. Implementation of the SI&T staff action plan will reposition staff to better respond to high demand	Expected to remain 'high/red'
CE	11	Failure by Members to comply with the new Information Security Policy	16 (reduced from 20 – increased controls)	Members have been notified of their responsibilities and a training session for all members took place on 23rd September. Roll out of Members ICT provision under way. Once roll out completed auto forwarding will cease	Expected to move to medium/ amber
A & C	12	IAS Phase 2 Project. There are risks to operational business as usual and compliance with reporting requirements of the Care Act 2014	15 (New)	An internal audit identified some high importance recommendations which are being progressed as priority by management. Project is progressing to schedule with the Roadmap Releases.	Expected to move to medium/ amber
C&FS	13	Retention of children's case files beyond Data Protection Act (DPA) requirements	16 (New)	Children & Family Services (C&FS) Management Team has accepted advice from Legal Services to retain all data recorded on the former case management system (SSIS). Case by case decisions on retention has not possible due to the limited availability of experienced resources.	Expected to remain 'high/red'
Transportation					
E&T	14	Impact of academy and secondary age conversion on home to school transport policy.	16 Decreased from 20 (reduced impact)	Risk Removed – This will be managed within the Environment and Transport departmental risk register	N/A

E&T	15	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 amber
Partnership Working					
C&FS	16	Outcomes relating to Supporting Leicestershire Families (SLF) not being achieved.	20	Note: no change to previous reported position.	⬌ Expected to remain 'high/red'
CE & C&FS	17	Partnership relationships - Community Safety are not effective due to the difficulties of maintaining a working relationship with the Police and Crime Commissioner (PCC)	15	LCC Officer recently elected as Chair of SPB Executive. New strategic Police role developed to work between PCC and Police and Partners to develop partnership working	⬌ Expected to remain 'high/red'
E&T	18	LLEP-insufficient funding for transport schemes to deliver economic growth and LTP3 / Strategic Plan. Risk regarding match funding requirement for the Council	20	Ongoing discussions taking place through budget process to mitigate this risk and discuss possible options.	⬌ Expected to remain red

Commissioning & Procurement							
CR	19	The ability of Leicestershire County Council to effectively contract manage devolved services through new service delivery models	15	Note: no change to previous reported position.	Expected to move to 'medium/ amber'
Environment							
E &T	20	Reduced recycling performance	16 (New)	Regular monitoring of local and national trends in waste arisings and performance. Ongoing engagement with relevant groups to ensure awareness of upcoming changes in guidance or methods of calculating performance. A robust communication plan is in place.	Expected to remain red
Speciiific Update - EPH							
A&C	21	Risk to the County Council surrounding transfer of nine Elderly Persons Homes.	12	By the end of October 2014, Leicestershire County Care Limited (LCCL) has made capital payments totalling £1,545m against the outstanding sum of £3,245m. The balance outstanding is £1.7m. LCCL continues to comply with the terms of the new financial agreement, making timely interest payments at a rate of 7.5% (current Bank of England Base Rate, plus 7%). Interest received up to the end of October 2014 amounted to £341,000.	Expected to remain 'medium / amber'

6.   This register is designed to capture strategic risk, 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.

7.   The improvements introduced to the risk management framework acknowledge that 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 on an ongoing basis, as necessary. Equally, as further mitigation actions come to fruition and current controls are enhanced, the risk scores will be reassessed and this will result in some risks being removed from the CRR and reflected within the relevant departmental risk register.

Business Continuity (BC)

8.   The Business Continuity Team facilitated an initial workshop involving C&FS, Insurance and Property to plan for closure of a school, irrespective of whether it is LA or Academy. Work will continue into 2015, the objective being to produce a framework for such an incident, where the council has an obligation to ensure children continue to be educated.

Supplier BC Assurance

9.   A successful pilot has been completed of the new Supplier BC Assurance process, which aims to seek solid evidence that suppliers could manage and survive serious disruption from a major incident. A list of critical suppliers who will be subject to the new process will be compiled by December 2014.

Work Area Recovery

10.   Activity continues to manage the displacement of staff from all, or part of, County Hall Campus. Critical staff requiring rapid access to desk, phone, systems etc. has been confirmed and 'Recovery Zones' within County Hall have been identified, i.e. areas where less critical staff can be moved out (to home working or locality offices) to make space for displaced critical teams.

Particular focus is being given to Eastern Annex teams, due to the fragility of the building, demonstrated by a 'near miss' potential electrical issue during August which led to work area recovery preparations being made.

Incident Monitoring and Exercises

11.   The Ebola situation is being monitored, but is not considered a major risk to the UK at the moment (based on advice from Public Health).

12.   Several Business Continuity exercises are planned to take place in the next 3 months, involving various teams and different types of exercise – including a displacement exercise for key teams in the Eastern Annex, and a Call Cascade *(communications test)* within Adults and Communities.

13.   Several internal audits have been carried out during 2014 on the council's Business Continuity capability, covering both governance and operational aspects. A few recommendations were made, but all of the audits rated BC as "substantial assurance".

Insurance

Tender for the Main Insurance Programme

14.   In the risk management update to Committee on 12 May 2014, it was reported that market conditions for local authority insurance were deteriorating and that there was a lack of competition generally. A risk was identified that the County Council's insurance premium could rise significantly for a second successive year.

In advance of renewal of the policy on 1st October the holding insurer, Travelers Ins. Co. Ltd., indicated that it intended to break the long term price agreement for the second year running on the liability class of business only. As a result a decision was taken to carry out a marketing procurement exercise. Only two insurers responded to the main package of business and the holding insurer was completely uncompetitive.

As a result of the tender procurement exercise the total cost of insurance has increased, but by an acceptable amount with all classes placed with a new insurer. The decision has also been made to increase the County Council's self-insured retention in respect of the liability risk from £150,000 to £250,000 as it is financially advantageous to do so. The previous limit had been in place since 1998.

Municipal Mutual Insurance

15. Leicestershire County Council was insured by Municipal Mutual Insurance (MMI) between 1969 and 1992. MMI entered into administration in 1992 and since this time has been 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, due to high numbers of historic abuse, noise induced hearing loss and mesothelioma claims.

In order to restore the company's balance sheet the Scheme Administrator imposed a 15% levy on all claims paid to date and on all claims yet to be settled. The County Council has now 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.

MMI's recently released accounts show a significantly worsening position with actual claims exceeding the forecast made by MMI's actuaries. At the moment the Scheme Administrator is of the view that it is too early in the development of the claims pattern to increase the levy, but there is a significant possibility that this will be necessary at some future point in time. The County Council holds an uninsured loss fund to pay for future levies.

Fraud Prevention Initiatives

16. At the Committee on 23 September 2014, Members were informed that the County Council is in the process of revising its existing anti-fraud framework to align with best practice outlined in: -

- Fighting Fraud Locally (FFL) – The Local Government Fraud Strategy (2011) and
- The CIPFA Code of Practice on Counter Fraud (2014)

17. Following the disbanding of the National Fraud Authority (NFA), CIPFA, through its Counter Fraud Centre (CCFC) has taken on the lead for the national counter fraud and anti-corruption strategy for local government 'Fighting Fraud Locally' (FFL) and will develop new tools and services for the public sector on counter fraud and anti-corruption as well as providing thought leadership and horizon

scanning. The CCFC will develop over the forthcoming months to become established as the UK's national centre of excellence on counter fraud.

18. The underlying principle of the FFL strategy is one of partnership between local and central government and a strategic approach to fraud. It advocates that local government should '…*use its knowledge, flair and determination to tackle the serious problem of fraud*'. An example of this is the comprehensive review of the single person discount scheme applied across six Leicestershire District Councils in conjunction with a third party, which was reported to the 23 September 2014 Committee. It advises that the role of central government is to create the right conditions for local authorities to take the necessary initiatives including creating incentives to reward councils that reduce fraud; exploring removal of barriers to appropriate information sharing; and exploring options for providing professional staff with access to the necessary investigative powers.

19. The CIPFA Code of Practice on Counter Fraud 2014 (the Code) was published on 16 October 2014. The Code will support organisations seeking to ensure they have the right governance and operational arrangements in place to counter fraud and corruption. It is a voluntary code that can be applied in any public service organisation. It is brief and clearly sets out the importance of top level support from the governing body and leadership team. Where an organisation chooses to make a statement in its annual governance report about its adherence to the Code, one of two statements should be approved according to whether the organisation conforms to the Code or needs to take further action. In its last report in the 'Protecting the Public Purse' (PPP) series before it closes in March 2015, the Audit Commission recognised that the six key components of effective stewardship of public funds are incorporated within the Code and recommends that all public bodies, including local authorities, to assess themselves against the Code.

20. The Code is organised around five key principles:

   - **Acknowledge** the responsibility of the governing body for countering fraud and corruption;
   - **Identify** the fraud and corruption risks;
   - **Develop** an appropriate counter fraud and corruption strategy;
   - **Provide** resources to implement the strategy;
   - **Take action** in response to fraud and corruption.

   A copy of the Code is at Appendix B.

21. The starting point of a strategic approach is to acknowledge the first principle of the Code i.e. that fraud does exist within organisations, and that the governing body (elected members and senior management) has a responsibility for countering fraud and corruption. Corporate Management Team (CMT) has already agreed to adopt the principles of the Code and to include a statement of either conformance or further action required in the Council's annual governance report, and there is a recommendation that this Committee adds its support to this.

22. The second principle of the Code is to identify fraud and corruption risks by performing a fraud risk assessment and using 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 FFL outlines 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 FFL, as well as the Audit Commission's Protecting the Public Purse publication, reports from the biennial National Fraud Initiative (NFI) exercise, Ministry of Justice Bribery guidance and historical local information on reported fraud cases.

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 and the results of the assessment have been benchmarked for *reasonableness* through the Midland Counties' Chief Internal Auditors network. Recognising fraud in this manner ensures there is a comprehensive understanding and knowledge about where potential fraud and bribery problems are 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. This in turn influences the internal audit annual planning process.

25. The Council's Anti-Fraud and Corruption Strategy is currently under review and will be re-launched in spring 2015. It will be aligned to the Code.

Recommendation

26. That the Committee:

   (a) Notes that the current status of the strategic risks and the addition of new risks facing the Council and makes recommendations on any areas which might benefit from further examination;

   (b) Identifies a risk area for presentation at its next meeting;

   (c) Approves the updated Corporate Risk Register attached as Appendix A to this report;

(d)   Adopts the principles of the CIPFA Code of Practice on Counter Fraud (2014) to include a statement of either conformance or further action required, in support of the Council's initiatives to improve further the prevention and pursuit of fraud.

Resources Implications

27.   None.

Equality and Human Rights Implications

28.   None arising from this report.

Circulation under the Local Issues Alert Procedure

A Members News in Brief item covering the agreement reached with Leicestershire County Care Limited regarding payment has been circulated to all members of the County Council.

Background Papers

Report of the Director of Corporate Resources – 'Risk Management Update' – Corporate Governance Committee, 3 February 2010

Report of the Director of Corporate Resources – 'Risk Management Update' – Corporate Governance Committee, 2 September 2013

Report of the Director of Corporate Resources – 'Risk Management Update' – Corporate Governance Committee, 25 November 2013

Report of the Director of Corporate Resources – 'Risk Management Update' – Corporate Governance Committee, 10 February 2014

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Appendices

Appendix A – Corporate Risk Register
Appendix B - CIPFA Code of Practice on managing the risk of fraud and corruption
Appendix C - Fraud Risk Assessment