

Report of the: Director of Policy and  
Resources

Agenda  
Item No: 10  
Meeting: 23 January 2014

## **NORTH LINCOLNSHIRE COUNCIL**

### **AUDIT COMMITTEE**

## **RISK MANAGEMENT PROGRESS REPORT**

### **1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To inform Members of key issues arising from risk management work.
- 1.2 Regular reporting on risk management issues is an important source of assurance for Members to fulfil their role and provides supporting evidence for the annual approval of the Governance Statement.

### **2. BACKGROUND INFORMATION**

- 2.1 Strategic risks are defined as 'those risks, which will significantly impair the achievement of the council's principal aims and objectives, core service delivery and overall probity'.
- 2.2 The Strategic Risk Register has been reviewed using the following methodology
  - Identified potential risks that would impact on the achievement of the aims and priorities set out in the Council Strategy
  - Analysed council wide risks identified in operational risk registers
  - Risk Management Group members provided a service perspective and challenge
  - Considered the 'industry perspective' as identified in the ZM report Risk & Response - the emerging dynamics of major incidents in Local Government'
  - Researched strategic risks identified by other authorities to provide a 'sense check' and ensure there are no important omissions.

The updated strategic risk register is shown in Appendix A. Eleven strategic risks were identified and a senior lead officer was assigned for each of them. The format of the register has been altered slightly this year to highlight some of the most significant and current components which impact on each risk. This helps to integrate ongoing work on high risk projects and initiatives (some of which may be time limited)

with the parent strategic risk. Strategic risk lead officers will be required to include assurance from project lead officers as part of their assessment of the adequacy of risk controls and net risk exposure.

- 2.3 An important aspect of the risk management action plan is to continue to raise awareness across the council. This is achieved through comprehensive training programmes and communication networks. In addition to information available on the web page and Intralinc the 15<sup>th</sup> edition of the Risk Roundup newsletter was also issued in November (appendix B).
- 2.4 Partnership risk management arrangements have also been reviewed. Partnership lead officers were interviewed to establish whether risk registers are maintained. The registers were examined to ensure they were robust and assistance and guidance was also provided as required. The outcome of this work showed the majority of partnerships had not developed a risk register. Since the review 2 more risk registers have been completed and the other partnership lead officers have been reminded of the need to complete theirs. Compliance with the partnership governance framework including risk management will be reported to senior management for support in taking action to rectify this.
- 2.5 Risk management and performance is integrated wherever possible. Work is on-going with the Business Performance Improvement team to ensure risk management is fully integrated within the Performance Scorecard.

### **3. OPTIONS FOR CONSIDERATION**

- 3.1 The Committee should consider whether this update provides sufficient assurance on the adequacy of risk management arrangements. The Committee is invited to ask questions about the contents of the report and seek clarification as necessary.

### **4. ANALYSIS OF OPTIONS**

- 4.1 The progress report is designed to provide this Committee with the assurance required to fulfil its role effectively.

### **5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

- 5.1 Regular reviews of risk management arrangements should safeguard the council's assets and ensure that value for money is achieved in the use of resources.

## **6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)**

6.1 An Integrated Impact Assessment is not required.

## **7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED**

7.1 The Risk Management Group is made up of representatives from all services and therefore risk management outcomes are the result of a comprehensive consultation process.

7.2 There are no conflicts of interests to declare.

## **8. RECOMMENDATION**

8.1 That the Audit Committee considers the assurance provided by the Risk Management progress report on the adequacy of risk management arrangements.

### **DIRECTOR OF POLICY AND RESOURCES**

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Date: 09 December 2013

**Background Papers used in the preparation of this report:** None

Appendix A

Strategic Risk Register

Strategic Risks (Council Priorities)	Strategic Risk Lead	Current Significant Risk Components	Risk Lead	ZM Survey Risks	Top 10 ORR no.
1. Failure to deliver council priorities and services (All priorities)	Simon Driver	Integrate Public Health responsibilities	Frances Cunning		
2. Inadequate workforce planning and management to meet current and future needs (Priority 2))	Mike Wedgewood	Impact on workforce following funding reductions (e.g. redeployment, skill retention)	Helen Manderson	Industrial Action	2, 4, 5
3. Serious breach of information/loss of ICT systems (Priorities 1 & 2)	Mike Wedgewood	Control over social media  Information Governance breaches  Cybercrime attacks	Jason Whaler  Jason Whaler  Jason Whaler	Loss of sensitive data  IT system failure	1, 6
4. Failure to maintain effective governance arrangements (Priority 2)	Mike Wedgewood	Implementation of new legislation  Effective Partnership governance arrangements  Compliance with Health & Safety Legislation	Will Bell  Jason Whaler  Helen Manderson	Supply chain failure  Governance failure	7,9,10

<p>5. Failure to deliver major projects/capital programme (Priorities 2 &amp; 4)</p>	<p>Peter Williams</p>	<p>Secure future disposal of residual waste in North Lincolnshire in line with the Waste Management Strategy</p> <p>Delivery of the Regional Growth Fund project</p> <p>Delivery of the Northern Lincolnshire Broadband Programme</p>	<p>Chris Matthews</p> <p>Marcus Walker</p> <p>Marcus Walker</p>		
<p>6. Recession resulting from national or local problems including closure of a major employer (Priority 4)</p>	<p>Peter Williams</p>	<p>Delivery of the council's Regeneration Strategy</p> <p>Manage the impact on services – housing support/welfare etc</p>	<p>Marcus Walker</p> <p>Trevor Laming</p>		
<p>7. Failure to meet the MTFP (Priority 2)</p>	<p>Simon Driver</p>	<p>Delivery of planned budget savings</p> <p>Delivery of Transformation Plans</p> <p>Delivery of the council's Commissioning Programme</p>	<p>Simon Driver (supported by Directors)</p> <p>Simon Driver (supported by Transformation Plan leads)</p> <p>Jason Whaler</p>	<p>Shortage of critical resources</p> <p>Major financial crisis</p>	<p>8</p>

<p>8. Inadequate emergency planning and business continuity arrangements to manage the impact of major emergencies and business disruptions (Priority 3)</p>	<p>Simon Driver</p>	<p>Delivery of critical functions during major emergencies and business disruptions following staff reductions</p> <p>Loss or unavailability of a key asset due to the impact of a major emergency or business disruption</p> <p>Contamination</p> <p>Public Health Outbreak e.g. Pandemic Flu</p>	<p>Trevor Laming</p> <p>Trevor Laming</p> <p>Trevor Laming</p> <p>Wendy Brownbridge</p>	<p>Severe weather events</p> <p>Terrorism</p> <p>Infrastructure loss</p> <p>Pandemic</p>	<p>3</p>
<p>*9. Failure to improve the health and wellbeing of the population (Priorities 1 &amp; 3)</p>	<p>Frances Cunning</p>	<p>Delivery of the Health &amp; Wellbeing Strategy</p> <p>Implementation of Welfare Reforms</p>	<p>Frances Cunning</p> <p>Mike Wedgewood</p>		
<p>*10. Failure to safeguard vulnerable persons (Priority 3)</p>	<p>Denise Hyde</p>	<p>Compliance with safeguarding legislation and government guidance</p> <p>Implementation of Dilnot Reform</p> <ul style="list-style-type: none"> <li>• Adult Social Care</li> <li>• Children's Services</li> </ul> <p>Integration Transformation Fund</p>	<p>Denise Hyde</p> <p>Karen Pavey Mick Gibbs</p> <p>Frances Cunning</p>		

11. Failure to maintain the council's reputation (Priorities 1 – 4)	Mike Wedgewood	Appropriate use of new media opportunities (insufficient guidance and support)  Delivery of the Communications Action Plan	Chris Skinner  Chris Skinner		
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**\*New Risks**

**OUT**

**Service delivery – included in risk 1**

**Contamination – included in risk 8**

**Needs of individuals and communities – included in risk 1**

# RISK

## roundup

Issue 15  
October 2013

A digest of risk management issues



Bizarre calls p2

## A new world of risk

Source: Paper produced by Zurich Municipal

**“Local government’s role, responsibilities, business model and finances are set to change”**

**It is more** important than ever that local authority leaders heed the guidance of HM Treasury to recognise “the importance of looking over the horizon and managing upcoming risks”. Local government’s role, responsibilities, business model and finances are set to change; as such, this means a significant shift in the traditional risk profile of each and every local authority – with new risk challenges. The rising areas of risk are detailed below, all of which have the potential to challenge the viability of the local authority and its core concerns.

**Supply chain** Local authorities are increasingly entering into a broad range of relationships across the public, private and third sectors (civil society). Many of these relationships underpin critical operations and service delivery. Unfortunately, outsourcing and partnership working failure has caused a variety of disasters and embarrassments, emphasising that supply chain risk is topical, potentially catastrophic and urgent.

**Organisational transformation** The UK public sector is facing a period of deep austerity. The automatic reaction to a need for efficiency is organisational rationalisation, or downsizing, and implementing shared service operations; yet neither are without their own inherent risks.

**Climate change** Flood risk is a significant and growing problem, whether it is inland flooding, urban drainage or coastal flooding. Councils are now required to lead local flood and water risk management programmes, recovery operations, as well as being expected to meet statutory targets and influence local action on CO<sub>2</sub> emissions.

**Data protection** Managing information risk is a growing challenge for public sector organisations who collect, store and use a wide range of personal information. Where local authorities hold or use a wide range of personal information, they must act as the custodian of that data and retain and build public confidence that information is held securely.

**Reputational damage** In the modern day, 24 hour news media, the risk of reputational damage is a growing issue as the public becomes increasingly aware and less tolerant of organisations that do not conform to regulatory, legal, societal and environmental expectations. For local government, the risk and challenge is perhaps even greater. A local authority is at the very centre of the community and must retain the public’s confidence at all times.

**Workforce planning** In 2008 the Audit Commission found that only one in four councils had effective workforce strategies. Without improving a council’s approach to workforce planning, key corporate priorities such as service transformation, efficiency gains and mainstreaming equalities may be at risk.

**Asset management** The current fiscal environment will place local authorities under increasing financial pressure to improve their asset management, both in terms of the need for efficiency gains

**Continued on page 2**



## A new world of risk **continued from page 1**

and greater resilience for the remaining asset management opportunities, such as co-location in partnership working and shared services, plus the transfer of public assets to community ownership, carry new risks and challenges.

**Financial & economic challenges** The implications of a significant fall in local

government funding, matched by increased service demands, are broad. Local authorities will have to balance the risk of financial cuts against local economic and community impact. Councils will also have to focus on stringent cost controls and mitigating unplanned costs such as fraud.

### INFORMATION GOVERNANCE

## Organisations urged to check home working policies are up to scratch



**The Information Commissioner's Office (ICO)** is warning organisations to make sure that they have adequate measures in place to make sure personal information accessed and used by home workers is being kept secure.

The warning comes after Aberdeen City Council was served with a penalty of £100,000 after sensitive

personal information relating to the care of vulnerable children was inadvertently posted online by one of their home workers. The information was freely available for a three-month period before a council employee spotted it and the information was taken down.

The investigation found that the council had no means of monitoring how

personal information was being accessed and used by their home workers and provided no guidance to help people working from home keep personal information secure.

The importance of keeping personal information secure is emphasised in North Lincolnshire Council's Homeworking Policy which is included in the HR Manual.

## Materials teach information security

**The ICO** has published new teaching materials for schools to help teachers explain to young people the importance of looking after their personal information.

The material has been developed by teachers and tailored to specific areas of the curriculum. The work was originally undertaken after the ICO survey carried out showed that 9 out of 10 secondary school pupils were using a social networking website, but 60% paid no attention to the website's privacy policy.

## LGA's top 10 bizarre council calls

**Crocodile keeping,** horse burial and solitary frog removal are just some of the bizarre requests councils were asked to deal with last year, the Local Government Association (LGA) has revealed.

The chair of the LGA's improvement and innovation board, said that councils needed to be ready for anything.

The LGA's top 10 bizarre calls:

1. Are there any regulations on keeping a crocodile in my garden? (Reigate & Banstead Council)
2. Can you teach me how to use a chain saw? (Chelmsford Borough Council)
3. Do you know where I could get an old bath that I could fill with custard? (Sutton Council)
4. Can you send a pest control officer to remove a frog from the bottom of the communal stairs in my block of flats? (Crawley Borough Council)
5. Am I allowed to bury my horse in the garden? (Warwickshire Borough Council)
6. "I have tried the number given on your website for the library but it does not work". "What was the number?" "0900 1800". "I am sorry those are the times the library is open between." (Surrey County Council)
7. How can I get permission to pitch a tent on the central reservation of the A35 trunk road? (Derby City Council)
8. How do you make a marinade to put on my barbecue steaks? (Newark & Sherwood District Council)
9. A lady rang to say she could not get any reception on her TV. She had already contacted the police and the fire brigade but they could not help, so she called the council (Rossendale Borough Council)
10. Can you remove all porn from the internet? (Westminster City Council)

# Local authorities liable for negligence of third-party contractors

**“Residents in care homes, both adult and child, may also attract a similar non-delegable duty”**

A county council has lost a Supreme Court battle over the scope of a local education authority's duty to pupils in its care and its responsibility for outside contractors.

In *Woodland v Essex County Council* [2013] a 10 year old pupil at a junior school in Essex was involved in a near drowning incident. The child suffered a serious hypoxic brain injury and is now incapable of looking after her own affairs.

The lesson took place during normal school hours and was required by the National Curriculum. It was alleged by the claimant that both the swimming teacher and the life guard, who were employed by an independent company not the school, had negligently failed to notice that the claimant had got into difficulties and therefore the company was liable and not the school.

Proceedings for negligence were brought on her behalf against a number of parties,

including the county council. Neither the teacher who took the class nor the lifeguard who was in attendance were employed by Essex CC.

The case against Essex included an allegation that the local authority owed the girl a 'non-delegable duty of care', and so was liable for any negligence on the part of the swimming teacher or the lifeguard.

The traditionally held view in cases of this nature is that a defendant has a defense to such matters if they have employed a reasonably competent contractor, which was exactly what was argued by Essex CC. The High Court struck out the claimant's allegation at first instance and this was subsequently upheld by the Court of Appeal. However the Supreme Court issued a landmark ruling against the order striking out the allegation. The case will now return to the High Court for a decision to be made as to Essex CC's liability.

The Court stated that non-delegable duties arise in the following situations:

- i) Where the claimant is a patient or child or for some other reason especially vulnerable or dependant on the protection of the defendant
- ii) Where the claimant is in actual custody, charge or care of the defendant due to an antecedent relationship which imputes to the defendant a positive duty to protect the claimant from harm
- iii) Where the claimant has no control over how the defendant chooses to perform those obligations
- iv) Where the defendant has delegated some function which is integral to its positive duty to a third party who then exercise the defendant's custody, care and an element of control
- v) Where the third party has been negligent in performing the function assumed by the defendant and delegated by the defendant to him

The Court stated that they felt that it was just fair and reasonable to impose these duties. The law should protect those who are vulnerable and subject to a degree of control and that the school should be answerable for the performance of its educational function, especially as parents are required by law to entrust their children to a school and have no knowledge or influence over its arrangements.

## Risk Management Issues

This case raises issues of non-delegated duties by councils.

The Supreme Court stated that they felt that it was not satisfactory that one pupil could sue the school for injuries sustained and another could not, depending on the arrangements made by that school. It also recognised that outsourcing activities may leave claimants vulnerable. Considering the broad application of the categories above, local authorities should have regard to the type of claimant that this case may well cover. The categories do not limit the situation to pupils and as such residents in care homes, both adult and child, may also attract a similar non-delegable duty.

In reality the Defendant's in these cases may ultimately end up suing the contractor under breaches of contractual responsibility and therefore be no worse off. However, in cases where the contractor does not have facilities to deal with a claim of significant magnitude a local authority may find themselves paying a hefty price.

## COURT CIRCULAR

The insurers Zurich Municipal publish important insurance articles for councils to consider important risk management messages. A sample of these claims reports are detailed on the next few pages.

## Computer hacker's appeal fails

**ATTACK ON EDUCATIONAL AND POLICE ORGANISATIONS – COMPUTER MISUSE ACT R v Martin, 31.07.13, Court of Appeal (Criminal Division)**

**“With increasing amounts of information and conduct of everyday life taking place via computer systems, risks to the integrity of those systems need to be identified and protected against”**

**IN 2011**, the defendant, M, launched a ‘Denial of Service’ (DOS) attack against the Oxford University website, effectively paralysing the website. He also claimed to have committed a ‘Distributed Denial of Service’ (DDOS) attack against the same website several months earlier. This is similar to a DOS but on a larger scale.

M also attacked other websites including those of Cambridge University and Kent Police. Again, these websites were temporarily rendered unusable. He had also contemplated attacking the website of the Metropolitan Police and had listed other possible website targets, including the British and American Security Services. He also gained access to and disrupted (‘hacked’) the online personal and financial information of two individuals.

M pleaded guilty to several offences under the Computer Misuse Act 1990. The offences included the unauthorised modification of computer material, securing unauthorised access to computer material with intent,

and making, supplying or obtaining articles for use. M was sentenced to different terms of imprisonment for each offence, to run concurrently, i.e. at the same time as each other. The total term was two years. This was the longest term of the various sentences, imposed for offences of unauthorised modification of computer material. The maximum sentence for this offence is ten years’ imprisonment.

M appealed. The Court of Appeal held the offences were serious and contained many aggravating features including sophisticated planning, the persistence of the offences – they took place over nearly one year – and that certain offences were committed while M was on bail in respect of some of the offences which were being investigated. The Criminal Division of the Court of Appeal recognises what it described as “the public significance rightly attached to offending of this nature”. With increasing amounts of information and conduct of everyday life taking place via computer systems, risks to the integrity of those systems

need to be identified and protected against continually, as far as possible. The Court clearly regarded a custodial sentence as a necessary punishment in this case, despite only negligible material gain to the attacker. The prospect of imprisonment is intended also to deter others contemplating similar attacks and the Court stressed that, had the attacks been motivated by benefit, longer sentences would have been inevitable.

Further aggravating features included the serious potential for harm, given the nature of the organisations M had deliberately targeted. Additionally, M had invaded the privacy of the two individuals whose online personal and financial information he had disrupted.

The Court noted M, now aged 21, had received a police reprimand in 2008 for gaining unauthorised access to computer material with intent to commit an offence. In 2010 he ‘hacked’ into secure areas of the Canterbury College website, where he was a student.

The Court accepted that M had not committed the attacks for profit, save for one instance of using one of the individual’s accounts for ordering some takeaway food. The Court stressed that, had the attacks been motivated by personal benefit, longer sentences would have been inevitable.

The Court held the sentences imposed were “amply justified” and the appeal was dismissed.

The Criminal Division of the Court of Appeal recognises what it described as “the public significance rightly attached to offending of this nature”. With increasing amounts of information and conduct of everyday life taking place via computer systems, risks to the integrity of those systems need to be identified and protected against continually, as far as possible. The Court clearly regarded a custodial sentence as a necessary punishment in this case, despite only negligible material gain to the attacker. The prospect of imprisonment is intended also to deter others contemplating similar attacks and the Court stressed that, had the attacks been motivated by benefit, longer sentences would have been inevitable.

## Pupil prank 'not foreseeable'

### SAFE TRAFFIC ROUTES – SCHOOLS – PUPILS' PRANKS

**Gillie v Scottish Borders Council, 17.05.13, Outer House, Court of Session**

**The pursuer**, P, worked as a janitor at an academy for which the defender Council, D, was responsible. In May 2009, on the last day for sixth formers before examination leave, P slipped on Vaseline petroleum jelly on stairs in the academy building. The substance had been applied by the sixth form pupils to the banister and the stairs, as a practical joke. P sustained injuries for which she claimed damages from D, agreed at £16,000 subject to liability.

P allegations included D's breach of regulation 12(3) of the Workplace (Health, Safety and Welfare) Regulations 1992. This requires employers to ensure, so far as reasonably practicable, that workplace traffic routes are kept free of items and substances that could cause a person to slip or trip. The court heard of the long history of sixth formers playing pranks each year on a day known as "prank day" or "muck up day". Previous pranks included moving lockers against doorways preventing people getting out, and throwing water balloons. P alleged that D knew the day in

question was to be "prank day". She said reasonable precautions should have been taken to address the risks the day posed and that D could easily have kept the stairs free from hazardous substances on this particular day. D denied liability. It contended that, although the slippery substance was on the stair, it was not reasonably practicable to keep the stair free from substances applied as a prank. The Court referred to relevant case law including the Supreme Court's decision in Baker v Quantum Clothing Group Ltd.

In that case, the Supreme Court said that the question of "reasonable practicability" is similar to the common law duty of care, where consideration must be given to the nature, gravity and

imminence of the risk, its consequences, and the nature and proportionality of the steps which could address it. Here, the reasonably practicable steps to guard against the risk must be balanced against the time, cost and trouble of doing so, as well as consider whether the nature of the risk was reasonably foreseeable. The Court held the school knew of the problems with "prank day" and had instigated measures to deal with it but the school could not know what form a particular problem might take. The Court held that D could not reasonably have foreseen that Vaseline would be applied to the stairs. It would not be proportionate for the school to divert time and resources to monitor every sixth former throughout the day. The claim was dismissed.

This claim focuses on a local education authority's limited time and resources in the context of what were reasonably practicable steps to guard against risk of injury to those present at a school on an infamous day of pranks. This ruling reaffirms the factors a court will consider when addressing the question of "reasonable practicability" in terms of an employer's duty under the Workplace Regulations mentioned above, and the court will examine the particular circumstances of each case.

## Sauna scald not council's fault

### LEISURE FACILITIES – SAUNAS – OBVIOUS DANGERS

**Allen v South Somerset District Council, 15.02.13, Yeovil County Court**

**The defendant**, Council, D, occupied and controlled a leisure centre in Yeovil. The facilities included a sauna heated by a container of hot coals. A ladle was provided for visitors to douse the coals with water to produce steam.

The claimant, C, had entered the sauna. He ladled water on to the coals resulting in what he described as "a cloud of volatile scalding steam" being produced, scalding his hand.

C claimed damages from D for his injury, alleging it was caused by their negligence

and/or breach of duty under the Occupiers' liability Act 1957. His allegations included that D caused or permitted the sauna to overheat so that when water was ladled on, scalding steam would explode from the coals, creating a danger. He also alleged D failed to control the sauna heater with a thermostat, failed to inspect the sauna heater daily, and failed, in its risk assessment, to assess the risk of steam exploding from water being poured on to the coals.



## Sauna scald not council's fault - continued from page 5

C made several other allegations, broadly concerning the danger that steam, hot coals, and the sauna itself could present to users.

D disputed liability and replied to C's allegations. Among its responses was its denial that pouring water on to the coals posed a serious danger. D also said it had no records of heat from the sauna's coals creating a cause for concern.

D further contended it was obvious to C that a sauna is very hot, steam is hot but not volatile, adding water to the coals would create steam which, by the laws of physics, travels upwards, and that C should exercise caution when ladling water on to the coals.

D alternatively contended that the injury was

caused by C's negligence in failing to ladle the water on safely.

The judge considered whether the sauna was defective so that it overheated, and whether there were sufficient signs warning C how to use the facility correctly.

The judge held there was no evidence of the sauna overheating or not working properly. It was not necessary to warn visitors of the obvious danger that steam is hot. D did not need to provide another sign as to the correct use of the bucket and ladle. The judge concluded that C's injury was caused by his own actions – either he stood too close to the coals or ladled on too much water. But the injury was not caused by any breach of duty by D. The claim was dismissed.

This demonstrates that claims of injury from obvious risks may be vigorously defended by showing there have been no previous similar incidents or related complaints and that the injury is likely to have resulted from something the claimant did or failed to do in connection with the hazard.

## School liable for pupil's climbing wall fall injury

### SCHOOLS – CLIMBING WALL – PUPIL'S INJURY

Manningtree High School, 07.06.13, Colchester Magistrates Court

**“Pupils taking part in school sporting activities entrust their safety to the competence of instructors and the school's safety management system”**

A pupil, P, at the defendant school, S, was one of four pupils selected to try their first 'lead climb' of a climbing wall during a physical education lesson. This involved an advanced rock-climbing technique, and the climber needed to clip on to points on the wall as he ascended.

P ascended and clipped on successfully to the first three points. Another pupil, also inexperienced, was tasked with belaying the rope for P, i.e. keeping it taut or freeing more for P as required.

On reaching the fourth point, P became tired so the instructor told him to let go of the wall. As P let go, he fell over four metres to the safety mat on the floor as the rope had not supported him. P, aged 14, fractured a heel bone.

The Health and Safety Executive (HSE) investigated and prosecuted S under section 3(1) of the Health and Safety at Work etc Act 1974. This requires employers to carry out their undertakings in a way that ensures, so far as reasonably practicable, that those not in their employment, but who may be affected by the undertakings involved, are not exposed to risks to their health or safety.

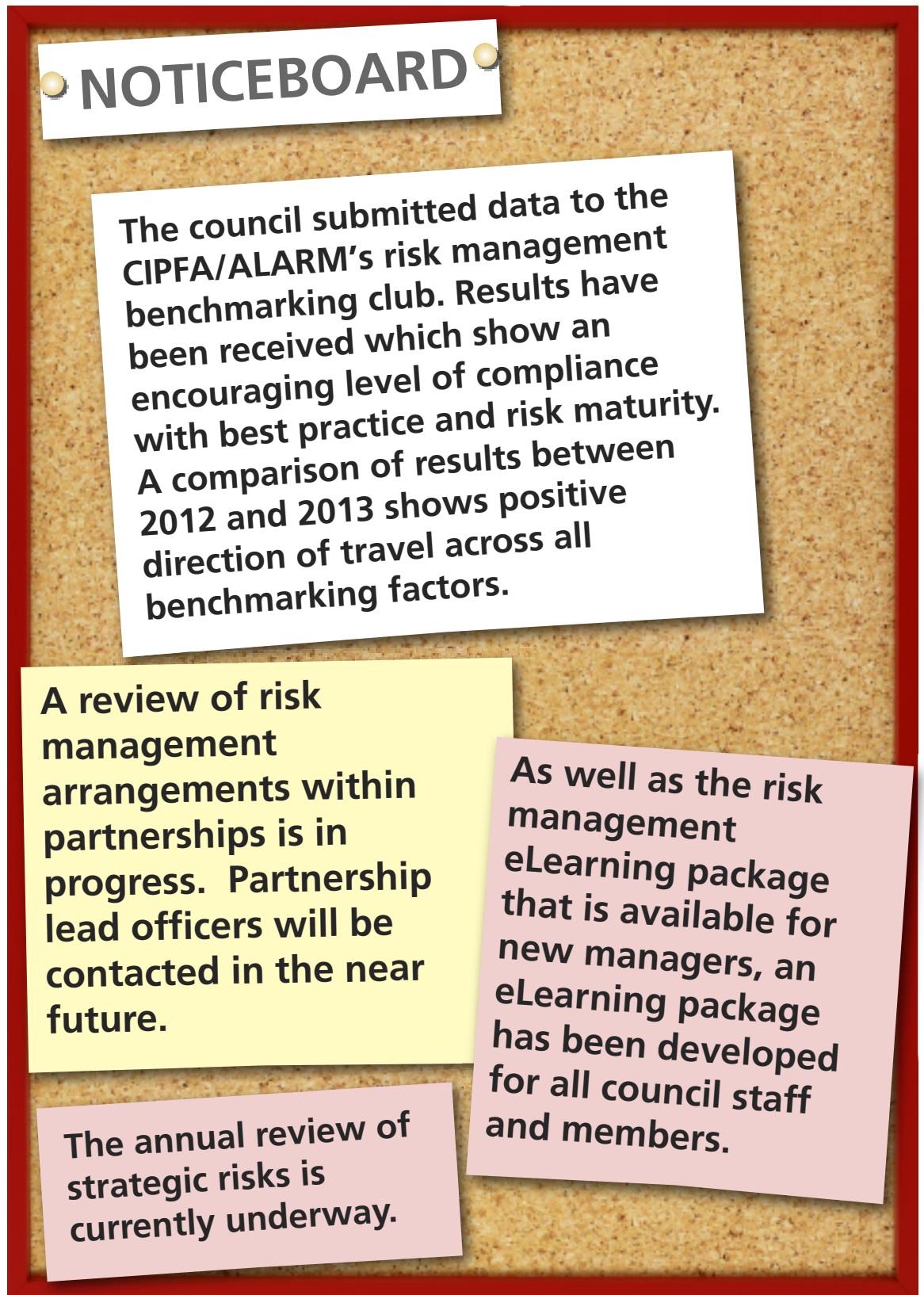
The HSE found that, before the lesson, none of the four pupils selected for the wall climbing knew what lead-climbing was. They also did not know of the risks involved, nor had they been adequately trained or prepared for the technique.

The HSE also found S's instructor not competent either to teach or to supervise

lead climbing, and S failed to have in place a suitable safety management system.

S pleaded guilty and was fined £9,000.

This is an example of what the HSE described as “a totally preventable injury” to a school pupil. Pupils taking part in school sporting activities entrust their safety to the competence of instructors and the school's safety management system, particularly where pupils have little if any experience and the activities clearly carry risks of injury. Such prosecutions, and possible civil claims for damages, can be avoided through risk management systems and safety procedures.



The council gratefully acknowledges the contribution made by its insurers, Zurich Municipal, in providing articles for this publication.

While every effort has been made to ensure the accuracy of these reports, this publication is intended as a general overview and is not intended, and should not be used, as a substitute for taking legal advice in any specific situation. Neither Zurich Municipal, nor any member of the Zurich group of companies, will accept any responsibility for any actions taken or not taken on the basis of this publication.

Any employee intending to take action arising out of these articles should, if in any doubt, contact the council's legal section for advice before doing so.