

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 The revised Strategic Risk Register was reported to Members in January and a review of strategic risk controls has been completed. The outcome of this work is summarised in appendix A. The evaluation of controls, based on the residual score, has been enhanced by using a definition of the adequacy of controls to provide greater clarity to Members on the level of assurance provided. The review shows that all strategic risks are managed to an acceptable level.
- 2.2 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. A Quick Guide to Risk Management has been produced and is published on the Intralinc (appendix B).
- 2.3 In addition to information available on the web page and Intralinc the 17th edition of the Risk Roundup newsletter was also issued in September (appendix C).
- 2.4 In March and June it was reported to Members that a council-wide review of operational risk registers could not be completed until all risk registers were available. Whilst efforts have been made to obtain the registers not all registers have been made available. There has however been much progress to finalise the Public Health Risk Register.

2.5 Work currently ongoing includes the following:

- Develop and implement a risk appetite model for the council
- Working with the Strategy & Information Governance Manager in ensuring compliance with the Partnership Toolkit, in particular its completion by partnership managers
- Embed risk management in schools

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.

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Background Papers used in the preparation of this report: None

Strategic Risk Control Evaluation

Risk	Controls	Inherent - Score before controls			Residual – Score after controls			Evaluation of controls – difference between both scores
		Likelihood	Impact	Risk Assessment	Likelihood	Impact	Risk Assessment	
1. Failure to deliver council priorities and services	Council Strategy, Integrated 4 year planning and budget processes, census data and other intelligence, public engagement and consultation, regular CMT meetings, regular review of council priorities, member and officer development, Integrated Impact Assessments, Legal/Democratic advisory role, policy tracker, partnership governance framework, budget monitoring arrangements, Constitution and Delegated Powers, Transformation Boards, Risk Management Strategy and Framework, performance reporting, Breakfast briefings	3	4	12	2	2	4	8 Significant Control Assurance
2. Inadequate workforce planning and management to meet current and future needs	Workforce Strategy & Development Plan, Strategic plan, workforce planning, Competency Frameworks, leadership and management training, Employee Appraisal Framework competency framework, succession planning, gap analysis, Human Resources Framework Policy and training, workforce plans, Internal Audit reviews, bi-annual employee survey, regular data quality checks, Scrutiny reviews, budget and workforce planning integration	2	3	6	1	2	2	4 Satisfactory Control Assurance
3. Serious breach of information/loss of ICT systems	Information Governance Policy Framework, IT Asset Register, training, computer room environmental monitoring and access controls, network monitoring, security forum, firewalls, virus checker, escrow agreements, back-ups, access controls/password controls, technical standards, external support contracts, Internal Audit reviews, business continuity plans/disaster recovery, insurance cover, VPN implemented for home workers, intruder detection, PSN Code of Connection, encrypted memory sticks, laptop encryption, disabled USB, IT partner agreement, Information Asset Owner responsibilities, corporate record store, NHS Toolkit Self-assessment, role of SIRO	3	3	9	2	2	4	5 Satisfactory Control Assurance

4. Failure to maintain effective governance arrangements	Employee/member Codes of Conduct and signed declarations, Constitution, Finance Regulations, Contract Procedure Rules, Treasury Management Strategy, vetting and financial appraisals of business partners, well defined budget process, HR policies, Internal and External Audit, Risk Management Strategy, Standards Committee, Partnership Toolkit, authorisation procedures and limits, insurance cover, robust decision making process, Integrated Impact Assessments, Counter Fraud Strategy, Consultation & Engagement Plan, Council Strategy, employee and member development, Contractors Framework	2	3	6	1	2	2	4 Satisfactory Control Assurance
5. Failure to deliver major projects and capital programme	Capital Strategy and Plan, Corporate Procurement Manual, Procurement Framework, training, market awareness and intelligence, Procurement Strategy, Internal Audit reviews, capital budget monitoring, remedies, robust contract terms and conditions, use of third parties and partnering models, appraisal of options, robust feasibility study, clear briefs for projects at inception, effective communication, Project Risk Registers, capital budget monitoring, post implementation reviews, Contractors Framework	3	4	12	2	3	6	6 Satisfactory Control Assurance
6. Recession resulting from national or local problems including closure of a major employer	Maintenance of strong economy, delivery of the Marine Energy Park and logistics Park – South Humber Bank, Regeneration and Community Investment initiatives, publication of an Economic Assessment, use of research and intelligence, regular monitoring and review of local development, delivery of Lincolnshire Lakes, NL Strategic Assessment, Regional Growth Fund, Apprentice Programme, Humber LEP Local Investment Fund, delivery of Regional Strategy, NL Broadband Business Support & Infrastructure Programme	4	3	12	4	2	8	4 Satisfactory Control Assurance
7. Failure to meet the MTFP	Good knowledge of workings of government finance system and information requirements, external funding, Grant Claim Protocol, Treasury Strategy, Risk Management Strategy, effective VFM and procurement process, Counter Fraud Strategy & Internal Audit work, clearly defined budget process, robust estimates, adequate reserves, procedures for recording emergency spending under Government's Bellwin Scheme, insurance cover with risk assessed stop loss, Commercialism Policy	3	4	12	2	2	4	8 Significant Control Assurance
8. Inadequate emergency planning and business continuity arrangements to manage the impact of major emergencies and business disruptions	HEPS, Local Resilience fora and sub-groups, Emergency Planning & Business Continuity Steering Group, Emergency Planning & Business Continuity Policy & Strategy, Civil Contingency Act sets out processes, Internal & External audits, RMG, internal and multi-agency training, schedule of Business Continuity Plans tests	3	4	12	3	2	6	6 Satisfactory Control Assurance

9. Failure to improve the health and wellbeing of the population	Health & Wellbeing Board established with agreed priority actions and associated work streams, Joint Health & Wellbeing Strategy, Joint Strategic Needs Assessment, Public Health Outcome Fund, systematic approach to identify priorities, commissioning services and measuring impacts, Consultation & Engagement Plan	4	3	12	2	3	6	6 Satisfactory Control Assurance
10. Failure to safeguard vulnerable persons	LSCB in place. LSCB multi agency procedures and guidance in place, LSCB threshold guidance in respect of Early Help Safeguarding Strategy, LSCB Learning & Improvement Framework, case audit process, Section 11 Framework, schools safeguarding audit process, Safer Recruitment Policy, Managing Allegations Against People Who Work With Children procedures, Scrutiny Panel, Information Sharing Protocol, consultation forums, SAB in place, SAB multi agency procedures, safeguarding training, SAB Action Groups, newsletters, whistleblowing and complaints procedures, Adults partnership	4	4	16	2	4	8	8 Significant Control Assurance
11. Failure to maintain the council's reputation	Robust governance framework, Internal Audit reviews, Risk Management Strategy, Counter Fraud Strategy, performance management arrangements, Communication & Press Office responsibilities, Consultation & Engagement Plan, Integrated Impact Assessments, robust decision making arrangements, Standards Committee, HR policies, training and development, Council Strategy	3	3	9	2	2	4	5 Satisfactory Control Assurance

Key to evaluation

Difference of 7+ Significant Assurance	Controls support the council's corporate and service objectives.
Difference of 4 - 6 Satisfactory Assurance	There is generally a sound system of control designed to support the council's corporate and service objectives. However some improvements to the design or application of controls are required.
Difference of 1 - 3 Limited Assurance	Weaknesses are identified in the design or inconsistent application of controls which put the achievement some of the council's corporate and service objectives at risk
Difference of Residual Score 0 No Assurance	There are weaknesses in control, or consistent non-compliance which places corporate and service objectives at risk.



A QUICK GUIDE TO RISK MANAGEMENT

WHAT IS RISK MANAGEMENT?

Risks affect everyone including members, staff, partners, service users and suppliers. Risk management takes place right across the council and is an integral part of all processes, services and operations. Every employee has a part to play in the management of risks.

Risk – the threat or possibility that an action or event will adversely or beneficially affect an organisation’s ability to achieve its objectives.

Risk Management – ensuring the achievement of outputs and outcomes, and having reliable arrangements to deal with the unexpected which may put the service at risk.

Opportunity Risk – the risk that a better opportunity may present itself after an irreversible decision has been made.

Risk has two dimensions that need to be assessed to determine the magnitude of risk:

Likelihood: the possibility that risk will occur
Impact: the consequence if the risk were to occur

Strategic Risk – any risk which may prevent the successful achievement of corporate objectives.

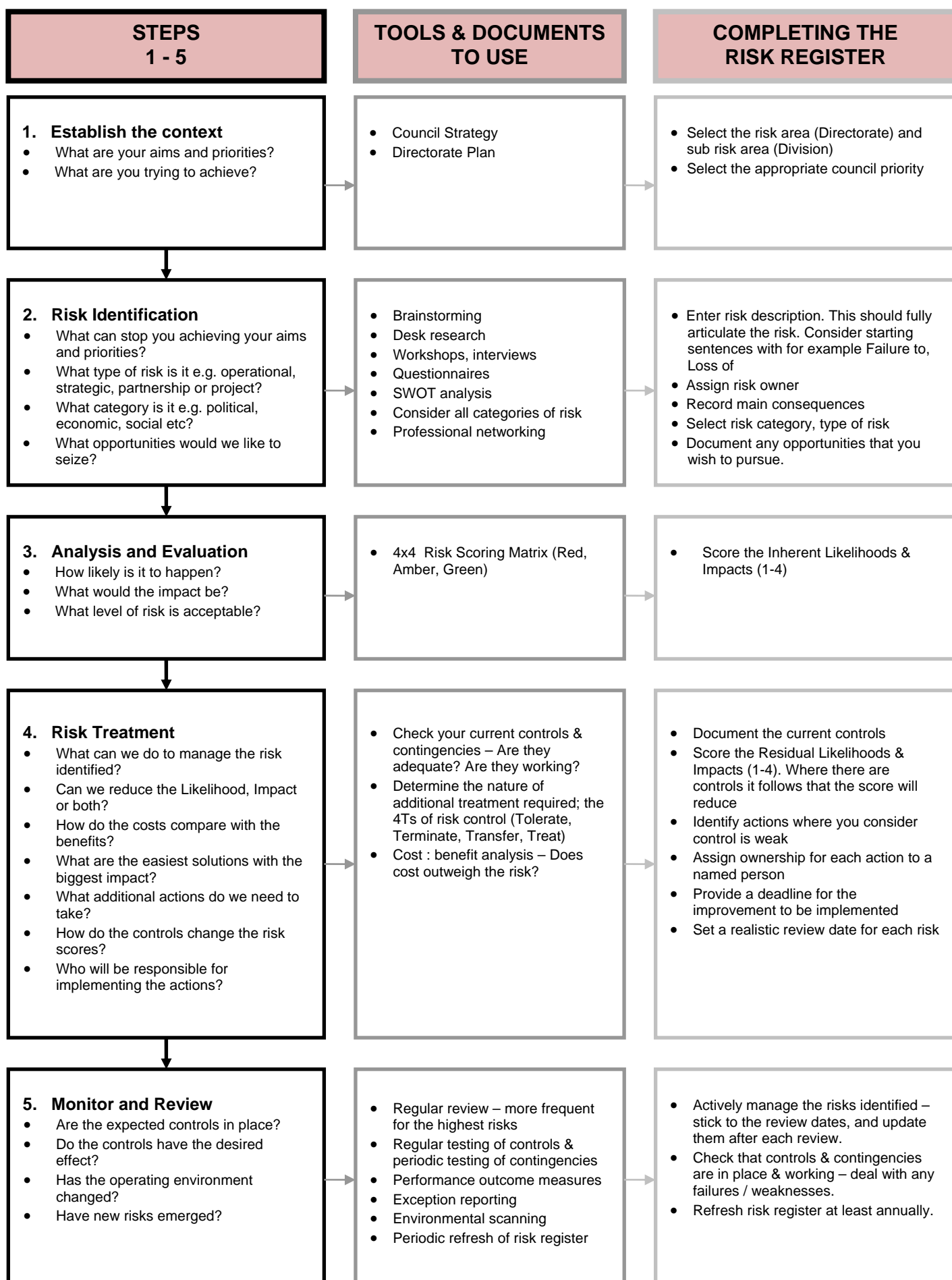
Operational Risk – any risk which may prevent the successful delivery of service priorities.

Risk Appetite – the amount of risk that an organisation is willing to take to achieve its objectives.

Risk Management Policy & Strategy – adopted by the council to ensure a focus and structured approach to the management of risk arising from the council’s activities, and to ensure that it is an integral part of governance of the authority. The risk management process is summarised overleaf.

Advice and Assistance – please contact Caroline Wilson on ext 6050 or email caroline.wilson@northlincs.gov.uk

MANAGING RISKS – A STEP BY STEP GUIDE



RISK **roundup**

Issue 17
August 2014

A digest of
risk management issues

New world of risk: **change for good**

In association with Ipsos MORI, Zurich Municipal has produced a report – New world of risk: change for good - providing an appreciation of the risks local authorities are facing. 2014 research shows that continued financial pressure, acknowledgement that austerity 'is the new norm' and the consequent need for transformation have all affected risk rankings.



70 chief executives and directors of local authorities were asked to grade the risks associated with current challenges in order of importance, the results of which are detailed below:

Changes in local government senior management team perception of risks	Risk Ranking	
	2014 LG leaders	2010 all public sector leaders
Budget Pressures	1	1
Changes in government policy, legislation and regulation	2	2
Workforce (attracting and retaining the right skills, performance, reward package)	3	5
Business and organisational transformation (statement added 2014)	4	-
Working with other organisations e.g. supply chains, outsourcing and partnership working	5	6
Reputation management	6	3
Social risk e.g. population changes, crime, antisocial behaviour	7	7
Data protection or security	8	8
Operational risk management including health & safety	9	4
Environmental challenges e.g. extreme weather events, climate change	10	9

The public are more evenly split between those who feel confident in public services' abilities to meet the challenges ahead (49%) and those who are not confident (47%).

New world of risk: change for good **continued from page 1**

Overall local authorities are confident that their risk management processes can fully address the risks they face with only a very small percentage of respondents interviewed expressing some doubt. This contrasts with the views of 997 members of the public who took part in the research. The public are more evenly split between those who feel confident in public services' abilities to meet the challenges ahead (49%) and those who are not confident (47%). The survey also evaluated the level of public awareness of the challenges currently facing public services.

Public awareness of public services challenges		
	Most important %	Least important %
Budget cuts	47	6
Changes in society (aging population, immigration)	34	6
Finding new ways to deliver services more efficiently	25	7
Changes in people's health and lifestyles	23	7
Responding to changes in the government's policies	22	6
Retaining good staff and positive morale	21	4
Losing public sector support in their ability to deliver services	17	8
Protecting personal data and keeping information secure	16	4
Tackling the effects of climate change	13	30
Having good relationships with other organisations	10	11

In addition to budget cuts, the members of the public were asked to select the three risks facing the council they were more concerned with. Their concerns were around declining service quality and protecting those who most need help.

Greatest Public Concerns	
	%
Quality of services will decline	31
People most in need of services will get poorer services or less help	29
Protecting vulnerable groups e.g. older people, children	25
Maintaining delivery of core services	25
Fewer frontline staff	20
Social change e.g. ageing population, immigration, changing lifestyle	19
Bureaucracy/top heavy management	17
Overall quality of staff will decline/good people will leave	16
Changes in government policy	15
Rising public expectations	9
Encouraging local business investment	7
Technological change e.g. storing personal data electronically	5

Information Governance

The ICO also saw its freedom of information and environment casework rise during the year.

Information Commissioner's Office (ICO) Annual Report

In its annual report the ICO said it had received 14,738 data protection complaints over the 12 month period, up 7.1% on 2012/13 (13,760),

with the local government and health sectors generating the highest number of complaints. The ICO also saw its freedom of information and environment casework rise during the year. It handled 5,151 complaints, up

9.9%. In relation to its enforcement powers, the ICO issued £1.97m worth of civil monetary penalties, seven enforcement notices and 28 undertakings.

An undertaking to comply with the seventh data protection principle has been signed by Oxfordshire County Council.

Recent enforcement notices and undertakings served by the ICO

Wolverhampton City Council has been issued with an enforcement notice following an investigation. The breach was caused when a social worker, who had not received data protection training, sent out a report to a former service user detailing their time in care. However the social

worker failed to remove highly sensitive information about the recipient's sister that should not have been included.

An undertaking to comply with the seventh data protection principle has been signed by Oxfordshire County Council. This follows an investigation whereby a

solicitor had removed a number of documents from the office but had dropped these in a street near their home. The sensitive personal data related to three child protection cases concerning 22 data subjects.

Top IT Data Security Threats Revealed

The ICO has published a new security report highlighting eight of the most common IT security vulnerabilities that have resulted in organisations failing to keep people's information secure. The flaws were identified during the ICO's investigations into data breaches caused by poor IT security practices. Many of these incidents have led to serious breaches resulting in the ICO issuing monetary penalties. The breaches could have been avoided if the standard industry practices highlighted in the report were adopted.

The top eight computer security vulnerabilities covered in the ICO report comprise:

- a failure to keep software security up to date
- a lack of protection from SQL injection
- the use of necessary services
- poor decommissioning of old software and services
- the insecure storage of password
- failure to encrypt online communications
- poorly designed networks processing data in inappropriate areas
- the continued use of default credentials including passwords

Officers and police raided 25 properties in two weeks, finding the four landlords, all of which were involved in high level tax evasion, with at least 50 properties between them.

Council and police raid 25 properties in two weeks in rogue landlord crackdown

Four previously unknown criminal landlords, two cannabis factories and an illegal restaurant conversion were among discoveries made by Lewisham council officers in raids on rogue landlords.

Officers and police raided 25 properties in two weeks, finding the four landlords, all of which were involved in high level tax evasion, with at least 50 properties between them.

They also found three unauthorised structures, now due to be demolished, an outbuilding illegally in residential use and an illegal conversion of a boarded-up restaurant into six studio flats.



There were also five unlicensed houses in multiple occupations, one of which was severely overcrowded with 29 people in a three-bedroom property. The two cannabis factories were running on stolen electricity, posing serious fire risks.

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.

OCCUPIERS' LIABILITY



NURSING TRAINING – SLIP WHILE BLINDFOLDED

Wright v Birmingham City Council, 14.01.14, Walsall County Court

The claimant, C, was attending a training course relating to her nursing career. The course was held at premises for which the defendant, D, were responsible.

The course included training regarding the care of visually impaired persons. This element of the training involved C being blindfolded and walking, with another student guiding her, while encountering obstacles and experiences, such as being sprayed in her face with water. As she walked along, she reached an area of fabric placed on the floor as part of the exercise. C's foot became caught in the fabric and she fell, sustaining injuries.

C claimed damages from D for her injuries, alleging breach of duty under the Occupiers' Liability Act 1957. Her allegations included failing to plan the course safely, failing to warn her of the position of the fabric, and failing to supervise her properly.

D denied liability, disputing that the fabric was placed on the floor. D contended C fell after losing her footing when her face was stroked with a duster. D also maintained the course was planned safely and was properly supervised. D also argued the exercise was a "desirable activity" under the Compensation Act 2006 (the 2006 Act). D's evidence included a copy of an aerial plan, setting out a template of the course.

At trial the parties continued to dispute the mechanics of the accident. The judge considered why C fell and, if she fell on a length of fabric, whether this amounted to D breaching its duty.

After hearing the evidence, the judge held there had been deviations from the aerial plan during the training session. The judge accepted a blanket had been placed on the (wooden) floor, creating a foreseeable risk of injury. That risk of injury was not outweighed by the exercise being "desirable" under the 2006 Act.

The judge found in C's favour, awarding her damages and interest of £2,400, plus costs.

comment

This claim ultimately involved a factual dispute as to whether fabric had been placed on the floor. The defendant and its witnesses maintained it had not, and the claimant's counsel argued that, if that were the case, there was no sufficient alternative explanation for how the claimant fell. This claim, though relatively small in terms of its cost to the defendant, demonstrates the importance of credible evidence as to how an accident occurred, particularly during a professional training session. It reinforces the need for the proper planning and supervision of training exercises, and clearly documented risk assessments. Where an accident occurs, photographs of the exercises undertaken and of the subsequent accident scene should be taken, and contemporaneous witness statements should also be obtained.

OCCUPIERS' LIABILITY



TRIP ON TREE ROOTS – SCHOOL PREMISES

Powell (a child, by her litigation friend A Powell) v Walsall Metropolitan Borough Council, 25.09.13, Walsall County Court

The claimant, C, was a pupil at a school in Walsall for which the defendant, D, was responsible. In June 2011, when she was aged 10, C was playing in the school playground when she tripped and fell over the roots of a tree in the playground.

C claimed damages from D for her injuries, alleging D was responsible through breach of duty under the Occupiers' Liability Act 1957 (the Act). Her allegations included failing to cordon off the roots to prevent children tripping on them when playing, failing to cover the roots with a sufficient amount of bark so that the roots were not dangerous, and failing to supervise children properly to stop them playing around the tree.

D denied liability. They contended, among other things, that their regular four-weekly inspections had not recorded the area as dangerous, they maintained an adequate covering of bark over the roots, and the children were properly supervised. D also argued C was partly or wholly responsible for her alleged accident in failing to look where she was going.

The court saw photographs of the tree roots. D's photographs showed a covering of bark but C's showed roots protruding. The court considered the key question was whether the roots were covered by bark.

The judge held that, even if there was no bark at the time of C's accident, this did not indicate there was no bark at other times. The judge held that bark can easily be swept away or displaced but, in any event, D had operated an adequate system for inspecting and maintaining the area.

The judge held the tree had been in situ for some time and D properly maintained the area around it. Although the judge sympathised with C, D was not at fault. The claim was dismissed.

comment

This is another reminder that an occupier's duty under the Act is to take reasonable care. The defendant was able to produce credible evidence that the playground was checked every four weeks during which the bark would be refilled if necessary, and the children were adequately supervised.

COLLAPSED PAVING STONE – REASONABLE INSPECTION SYSTEM

Riggall v North East Lincolnshire Council, 30.10.13, Great Grimsby County Court

In March 2010 the claimant, C, was jogging along a pavement in Grimsby when he tripped and fell, fracturing his toe. A paving stone had collapsed near a utility junction box, causing a depression in the pavement.

C claimed damages from the defendant highway authority, D, alleging D's breach of duty caused the accident. His allegations included failure, under s.41 of the Highways Act 1980 (the Act), to inspect and maintain the highway.

D denied liability, arguing, under s.58 of the Act that, even if the defect existed, D operated a reasonable inspection and maintenance system. The area was inspected every six months. An inspection was due and carried out the day before the accident, when no defect was found. The adjacent road was inspected two weeks later when the defect at which C fell was identified and temporarily repaired that day. A permanent repair was carried out within three weeks.

D also argued C was wholly or partly responsible for his accident, in failing to take proper care for his own safety.

The court held the defect formed very recently to C's accident – a spontaneous drop rather than a gradual occurrence. There were no other complaints about it. The court held sudden collapses such as here are not uncommon. The claim was dismissed.

comment

The court accepted that certain areas of paving can suddenly collapse in particular circumstances, such as in very wet weather, where vermin live and particularly near utility boxes, as here. This ruling again emphasises the importance of being able to produce credible evidence of the operation of a reasonable inspection and repair system, for a defence under s.58 to be successful.

TRIP – CONFLICTING EVIDENCE OF INJURY

Fisher v Poole Borough Council, 03.10.13, Portsmouth County Court

The claimant, C, said she went to a public house one night to collect a friend and, when walking back to her car, tripped in a pothole, fracturing her ankle. She denied she had been drinking and said she was wearing flat shoes and carrying only her handbag. C claimed damages from the defendant highway authority, D, alleging breach of duty under s.41 of the Highways Act 1980 (the Act).

D denied liability, disputing C's evidence. D referred to C's medical notes recording she had been drinking, had been carrying stage equipment at the time, and had slipped off the kerb. D also argued the pothole was not dangerous, being below their intervention level on a category 4b local access road.

D further relied on its defence under s.58 of the Act, arguing that, if the court found C fell in a dangerous pothole, D was not liable as it operated a suitable maintenance system.

The judge accepted C fell, the area was poorly lit, and there was a pothole in the parking bay, 25mm deep – well below the 40mm intervention depth for this type of road.

The judge considered whether C had lied as to her version of the accident. The judge noted C's version largely conflicted with the contemporaneous medical notes and C was therefore not a credible witness.

Had the accident occurred as alleged, the judge held the defect was minor, the area in question was not a pedestrian footway (requiring a higher standard of maintenance than a road), D had not received any previous complaints, and it was not dangerous. If it were, D's s.58 defence would have been accepted.

The claim was dismissed.



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.