

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 various sources of internal and external information. Details of the methodology used and the updated strategic risk register are shown in Appendix A. No changes have been made to the eleven strategic risks identified and the register was assessed as fit for purpose. The format of the register has also remained the same of that used last year and some of the most significant and current components which impact on each risk were identified and updated. This helps to integrate ongoing work on high risk projects and initiatives (some of which may be time limited) with the parent strategic risk. Council Management Team have reviewed the Strategic Risk Register, comments have been incorporated and they have also ranked the strategic risks in order of importance. 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 18th edition of the Risk Roundup newsletter was also issued in December (appendix B) and included important articles on significant risk topics such as the Care Act, barriers and information governance.

- 2.4 CIPFA/ALARM 2014 risk management benchmarking club results have been received which show an encouraging level of compliance with best practice and risk maturity. Data was analysed over 7 factors and scored on a scale 1 to 5 (1 being the lowest and 5 the highest). A summary of the results is provided in appendix C, and show arrangements are evaluated at level 3 (Working) in one area, 5 areas were evaluated at level 4 (Embedded and Integrated) and one area at level 5 (Driving). A comparison of results between 2013 and 2014 is also provided in appendix D. This shows positive/steady direction of travel across all benchmarking factors.
- 2.5 Risk management and internal audit work is integrated wherever possible. Risk management arrangements are considered in the development of annual audit plans; conversely internal audit reviews provide assurance on the adequacy of controls and the management of risks. Audit reviews of two corporate systems were recently completed namely; lone working and integrated impact assessments (IIA). The reviews were assessed as providing limited assurance and identified that improvements to controls were necessary. Action has been taken since the reviews to address the audit findings and follow up work will re-evaluate the adequacy of system controls.

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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Background Papers used in the preparation of this report: None

Strategic Risk Register

2014/15

Annual Review

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9/11/2014

North Lincolnshire Council

Caroline Wilson

Background Information

Risk management is a critical management tool to manage, assess and prioritise risks therefore enabling resources to be applied to minimise, monitor and control the probability and/or the impact of negative events. An important component of the risk management process is the strategic risk register. 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'.

Risks have been reviewed using a number of sources:

- The Council's Strategy
- Operational risk registers and audit work
- Professional Guidance available, in particular Zurich Municipals survey of strategic risks 'New world of risk: change for good' and KPMG's survey 'Local Authority Corporate Risk Register Analysis'
- Strategic risk registers from other local authorities were also used to cross check for obvious omissions of points of good practice

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

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 (for example 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

Zurich Municipal experts reviewed risks for the local government and the results are summarised below:

Zurich Municipal's view of top local government risks			
Risk	Description	Likelihood	Impact
1	Financial sustainability – Effective management of finances through ongoing austerity	High	Critical
2	Transformation – The business processes of transformation from the existing model to the desired outcome, looking at innovative ways of meeting business objectives and service delivery	High	Critical
3	Commissioning – Including partnership working, supply chain and contract management	High	Critical
4	Welfare reform – Delivery of services through ongoing welfare reform (e.g. the Care Act and child benefit changes) and potential demand pressures as changes come into fruition	Significant	Critical
5	Public health and social care - Public health integration and managing new responsibilities	Significant	Critical
6	Environmental – Risks including climate change, extreme weather events, escape of water, flooding, coastal erosion, fracking and waste management, with increased frequency and severity of loss	Significant	Critical
7	Statutory responsibilities – Compliance with statutory responsibilities, including health & safety, safeguarding infrastructural issues, maintenance, regulatory framework, information governance and transactions	High	Marginal
8	Technology – Using new technology/systems to reduce costs and fulfil today's communications, accessibility and transaction requirements	High	Marginal
9	Pandemic – A rapid and widespread infection/disease affecting the health and wellbeing of a significant number of people over a large area	Very Low	Catastrophic
10	Fraud – Deliberate actions by criminals to seek financial gain at taxpayer's expense	Significant	Marginal
11	Political – Risks driven by political agenda	Significant	Marginal

KPMG – Local Authority Corporate Risk Register Analysis

KPMG have undertaken an analysis of strategic risks. The exercise compared the strategic risk registers from a range of local authorities and the outcome highlights the most frequently featured risks. The results are detailed below:-

KPMG's view of top local government risks		
Risk	Description	%
1	Emergency Planning/Business Continuity	64
2	Partnership Arrangements	64
3	Delivering the MTFP/Savings Targets/Delivering Funding Cuts	62
4	Data Loss/Information security/Information Governance	62
5	Staff Morale	44
6	Welfare Reform/Universal Credit	43
7	Health & Safety Compliance	41
8	Safeguarding Vulnerable Children or Adults	39
9	Delivering Major Projects	33
10	Delivering Organisational Change	25

NLC Risk Register Analysis

An exercise was carried out to compare strategic risk registers from a sample of 12 local authorities. A summary of the most popular risks are as follows:-

Strategic Risk	Number of Authorities	%
Failure to compile and deliver the MTFP or failure to maintain financial viability	10	83
Inadequate emergency planning or business continuity response to an incident or emergency	9	75
Significant failure or loss of ICT systems	7	58
Inadequate governance arrangements in place	6	50
Failure to adequately safeguard children and young people	5	42
Failure to adequately protect, store and manage sensitive information	5	42
Supply chain failure	5	42
Failure to adequately safeguard adults	4	33
Failure to safeguard vulnerable people	4	33
Inadequate workforce planning	4	33
Failure of partnership	4	33
Economic climate/recession	4	33
Failure to adequately commission services	4	33
Impact of Health & Social Care reforms and Transforming Adult Social Care Programme	4	33
Impact of Climate Change	3	25
Changes in legislation/government reforms	3	25
Failure to implement transformation change	3	25
Breach of health & safety regulations	3	25
Inability to deliver a quality service and failing to meet customer expectations	3	25
Failure to identify and address internal and external fraud	3	25
Failure to maintain the council's reputation	3	25
Failure to maintain highway structures effectively	3	25
Impact of Welfare Reform	3	25
Failure to transfer Public Health contracts	3	25

Conclusion

The key risks identified in the above exercises feature in the NLC Strategic Risk Register (see below).

The format of the register altered slightly as part of the 2013 review and again this has been adopted for the 2014 review. This highlights some of the most significant and current components which impact on each risk and helps to integrate ongoing work on high risk projects and initiatives (some of which may be time limited) with the parent strategic risk. The current significant risk components have been refreshed.

Action for RMG and CMT

1. Does the Strategic Risk Register represent all significant/strategic risks the council faces?
2. Should any risks be removed, added redefined?
3. Are there any other significant risk components to be added?
4. Are lead officers appropriate?

For the Group to specifically consider

- To retain the risk – failure to deliver major projects/capital programme
- To separate the risks – serious breach of information/loss of ICT systems and failure to safeguard vulnerable people
- To breakdown further the risk – failure to maintain effective governance arrangements

On completion the Strategic Risk Register will be presented to the Audit Committee for approval.

Strategic Risk Register – 2014/15

Strategic Risks (Council Priorities)	Strategic Risk Lead	Current Significant Risk Components	Risk Lead	ZM Survey Result	ZM View
1. Failure to deliver council priorities and services (All priorities)	Simon Driver	Continue to integrate Public Health (School Nurses etc) Introduction of the Care Act Child Sexual Exploitation	Frances Cunning Denise Hyde Denise Hyde		
2. Failure to safeguard vulnerable persons (Priority 3)	Denise Hyde	Compliance with safeguarding legislation and government guidance Introduction of new legislation: <ul style="list-style-type: none"> • Children & Families Act • Care Act • Better Care Fund 	Denise Hyde Denise Hyde		Statutory Responsibilities
3. Inadequate emergency planning and business continuity arrangements to manage the impact of major emergencies and business disruptions (Priority 3)	Simon Driver	Delivery of critical functions during major emergencies and business disruptions following staff reductions Loss or unavailability of a key asset due to the impact of a major emergency or business disruption	Trevor Laming Trevor Laming	Environmental challenges	Environmental – extreme weather conditions

		Contamination Public Health Outbreak e.g. Avian Flu Effective management of flooding/adverse weather by investing in flood defence works	Trevor Laming Wendy Brownbridge Chris Matthews		Environmental Pandemic Environmental – waste management
4. Failure to meet the MTFP (Priority 2)	Simon Driver	Achieve identified budget savings Delivery of Transformation Plans Delivery of the council's Commissioning Programme Delivery of Shared Service Back-office Hub Transformation Programme	Simon Driver (supported by Directors) Simon Driver (supported by Transformation Plan leads) Jason Whaler Mike Wedgewood	Budget pressures Business and organisational transformation	Financial Sustainability Transformation Commissioning Transformation
5. Economic condition resulting from national or local problems including closure of a major employer	Peter Williams	Delivery of the council's Regeneration Strategy	Marcus Walker		

(Priority 4)		Manage the impact on services – housing support/welfare etc	Trevor Laming		
6. Failure to improve the health and wellbeing of the population (Priorities 1 & 3)	Frances Cuning	Delivery of the Health & Wellbeing Strategy Implementation of Welfare Reforms	Frances Cuning Mike Wedgewood	Social risk	Public Health & Social Care Welfare Reform
7. 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, impact of shared service models)	Helen Manderson	Workforce	
8. Failure to deliver major projects/capital programme (Priorities 2 & 4)	Peter Williams	Delivery of the Regional Growth Fund project Delivery of the Northern Lincolnshire Broadband Programme Delivery of the leadership of the University Technical College Delivery of Waste Management Strategy	Marcus Walker Marcus Walker Marcus Walker Chris Matthews		Environmental


		Delivery of the LEADER project	Marcus Walker		
9. Failure to maintain effective governance arrangements (Priority 2)	Mike Wedgewood	Implementation of new legislation	Will Bell	Changes in government policy/legislation & regulation	Statutory Responsibilities
		Effective Partnership governance arrangements	Jason Whaler	Working with other organisations	Commissioning
		Compliance with Health & Safety Legislation	Helen Manderson	Operational risk management including health & safety	
10. Serious breach of information/loss of ICT systems (Priorities 1 & 2)	Mike Wedgewood	Information Governance breaches	Jason Whaler	Data protection or security	Technology & Statutory Responsibilities
		Cybercrime attacks	Jason Whaler		
		Implementation of controls in order to comply with PSN Code of Connection	Jason Whaler		

<p>11. Failure to maintain the council's reputation (Priorities 1 – 4)</p>	<p>Mike Wedgewood</p>	<p>Appropriate use of new media opportunities (insufficient guidance and support)</p> <p>Delivery of the Communications Action Plan</p>	<p>Chris Skinner</p> <p>Chris Skinner</p>	<p>Reputation management</p>	
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RISK

roundup



A digest of
risk management
issues

Care Act 2014

The majority of legislation within the Care Act is existing policy that is being fixed into statute.

Introduction

The Care Act 2014 is the single largest change to health and social care policy for a generation. It seeks to bring together a number of existing laws, and introduces new duties to local authorities to ensure that wellbeing, dignity and choice are at the heart of health and social care. The majority of legislation within the Care Act is existing policy that is being fixed into statute. However, there are also a number of new duties being brought in through the Act for local authorities to take on.

The aims of the changes are to:

- Create a legal framework that is clear and easy to navigate
- Bring the law up to date to reflect a focus on the outcomes that people want, rather than their disabilities, and put the individual in control of their life
- Address areas of unfairness

The majority of the changes contained within the Act are set to take place in April 2015, with the reform of funding (including the cap on care costs) to take effect from April 2016.

Key areas of change within the Act

- General responsibilities including promoting people's wellbeing, focusing on prevention and providing information and advice
- The introduction of a consistent, national eligibility criteria
- New rights to support carers, on an equivalent basis to the people they care for
- Legal right to a personal budget and direct payment
- The extension of local authority adult social care responsibility to include prisons
- New responsibilities around transition, provider failure, supporting people who move between local authority areas and safeguarding

Major reforms to the way that social care is funded will be effective from April 2016, including:

- A lifetime 'cap' of no more than £72,000 for individuals on reasonable care costs to meet their eligible needs
- An increase in the capital threshold for people in residential care who own their own home

Care Act 2014 continued from page 1

A council wide group has been established and are working closely with staff, providers, partners, residents and carers to ensure the successful implementation of the Act.

How the Care Act will impact on North Lincolnshire

The benefits of the Act include:

- It brings together into one place most adult care law, making it simpler and easier to understand
- It improves rights for carers, and gives them the right to have an assessment of support needs
- It improves and clarifies the duty to promote all people's wellbeing (both adults and carers) when providing support
- It provides a greater clarity about safeguarding responsibilities, and how the local authority and partners work to protect the vulnerable
- It is making paying for the cost of a person's care fairer. This includes the introduction of a cap of £72,000 on how much reasonable care costs people will have to pay to meet their eligible care needs in their lifetime. The cap does include general living costs in residential care. The Government is suggesting this could be set at £12,000 a year
- It will give us better opportunity to give information and advice to self funders who previously might not have contacted the council

What we are doing to manage risks associated with the Care Act

This significant change in health and social policy represents both opportunities and risks to the council such as new responsibilities, financial and affordability risks, managing provider failure; needs assessment and service modelling; amongst others.

Generally, North Lincolnshire is already offering many of the services which are becoming law under the Act. However, there are some areas (particularly the impact of the new cap on care costs) which we need the people closest to that change to be involved in and inform our approach. A council wide group has been established and are working closely with staff, providers, partners, residents and carers to ensure the successful implementation of the Act. In addition we are working with other Local Authorities in the Yorkshire and Humber region in response to the Act and have taken the opportunity of regular progress stock takes carried out by the Department of Health.

The Department of Health has produced fact sheets on major areas of the Act, providing an overview and the duties and powers local authorities will have in the future. These can be found on the Government website.

Advice on horizontal swing car park barriers

Unsecured barriers can swing open due to the wind, gravity or as a result of vandalism.

A barrier typically comprises of a horizontal bar or beam hinged at a vertical pillar. The bar is manually moved to open or close off access to an opening in a car park exit/entrance.

Accidents have occurred when barriers have been

inadequately secured so that they have partially opened and presented a least visible end on profile of protruding barrier which has impaled on oncoming vehicle. The end profile of the barrier may not be clearly visible to an oncoming driver. Other incidents have occurred as a

barrier has swung into the path of an oncoming vehicle.

Unsecured barriers can swing open due to the wind, gravity or as a result of vandalism.

Vertically opening or lifting barriers can also present safety risks if they are not correctly controlled.



Continued on page 3

All barriers are inspected/risk assessed by a contractor on a 6 monthly basis.

Advice on horizontal swing car park barriers **continued from page 2**

The Health and Safety Executive (HSE) has produced some information to remind users of their duties in relation to the safe use of such barriers. Their responsibilities include:

- Carrying out a suitable risk assessment so that potential dangers are identified and precautions are put in place to ensure they are removed or controlled.
- Reviewing existing risk assessments where swing barriers are in place to determine whether elimination of the risk is possible. Horizontal swing barriers rely on human intervention to ensure they are locked open or shut, they are also susceptible to vandalism which can leave them in an unsafe position. Vertical lifting gates are a lower risk alternative, as is the provision of lower height swing barriers so that any collision will result in damage to the vehicle without causing any part of the barrier to enter the vehicle with possible fatal consequences.
- Where horizontal barriers are used, making sure the barriers are adequately secured at all times whether open or shut.
- Making sure the barriers are made visible by painting or marking with alternate red and white bands of adequate width to be clearly visible, so that persons do not inadvertently drive into them (additional local lighting may be required).

- Carrying out regular inspections to ensure that the methods of securing and visibility aspects have not deteriorated.
- Ensuring barriers are maintained in accordance with manufactures instructions.
- Liaising with suppliers if the risk assessment reveals that securing and visibility requirements are inadequate.

Additional measures that NLC have undertaken include the following:

- All barriers have recently been fitted with combination locks with the same number, therefore any service area can secure a barrier if found in a dangerous position.
- All barriers have been fitted with a unique disc number for ease of reference to a site.
- All barriers are inspected/risk assessed by a contractor on a 6 monthly basis.
- Where barriers are fitted as new or repainted, then these will be painted red/yellow as per HSE guidance.
- A consolidated barrier database is maintained by Property services.

The paralegal was prosecuted under section 55 of the Data Protection Act and fined £300, ordered to pay £30 victim surcharge and £438 prosecution costs.

Information Governance

'Leaving for a new job? Don't walk off with personal information', warns ICO

The Information Commissioners Office (ICO) is warning employees that walking off with personal information of their employer when changing jobs is a criminal offence.

The warning comes following a paralegal, who worked for a solicitors in Dewsbury, was prosecuted for illegally taking sensitive information of over 100 people before leaving for a rival firm. The information was contained in six emails sent by the paralegal before he left the firm. It was hoped that the information, which included

workload lists, file notes and template documents containing sensitive personal data, would be used in his new role.

The paralegal was prosecuted under section 55 of the Data Protection Act and fined £300, ordered to pay £30 victim surcharge and £438 prosecution costs.



Continued on page 4

Information Governance continued from page 3

The Court stated that “once it is accepted that an applicant can require further information in electronic form it seem only a small step to hold that he can also choose the format in which that electronic information is provided”.

Appeal judgement on format of information provided under Freedom of Information Act (FOIA)

The Court of Appeal issued its judgement in a case dealing with section 11 of FOIA. This section of the Act allows a requester to express a preference for information to be communicated to them by a particular means, so long as it is reasonably practicable to provide.

In the case, *Innes v Information Commission & Buckingham County Council*, Mr Innes requested information from the Council in an Excel format. When the information was sent to Mr Innes, the Council provided it electronically as a PDF of an excel spreadsheet rather than an excel spreadsheet. Mr Innes argued that he had been entitled to request a preferred software format under section 11(1)(a) of FOIA because ‘form’ includes ‘format’. The Commissioner did not agree, and his decision was upheld by both First-tier Tribunal and Upper Tribunal.

The Court has now agreed with Mr Innes on this point. The Court stated that “once it is accepted that an applicant can require further information in electronic form it seem only a small step to hold that he can also choose the format in which that electronic information is provided”.

The ICO is now undertaking a review of its guidance in light of this judgement.



How many people in the town have a licence to keep a tiger, lion, leopard, lynx or panther as a pet?

The top ten bizarre questions posed to councils

A demand to know what plans are in place to protect Wigan from dragon attacks has topped the list of the wackiest FOI requests sent to councils. The Local Government Association, who compiled the list, warned that such requests are wasting taxpayers’ money. Council chiefs also said many FOI requests were made for information readily available on council websites such as for staff telephone numbers.

The top 10 unusual FOIs are:

1. What plans are in place to protect the town from a dragon attack? (Wigan Council)
2. Please list all the types of animals you have frozen since March 2012, including the type and quantity of each animal? (Cambridge City Council)
3. How many times has the council paid for the service of an exorcist, psychic or religious healer? Were the services performed on an adult, child, pet or building? (Rossendale Council)

4. Please could you let me know how many roundabouts are located within your council boundaries? (Leicestershire County Council)

5. What precautions, preparations, planning and costings have been undertaken in the case of asteroid crashes in Worthing, a meteorite landing in Worthing or solar activity disrupting electromagnetic fields? (Worthing Borough Council)

6. How many holes in privacy walls between cubicles have you found in public toilets and within council buildings in the last 10 years? (Rossendale Council)

7. How many bodies are there in mortuaries that have been unclaimed for ten years? How long have the bodies been in the mortuary? How old were they when they died? Is it possible to have the names of these people? (Richmond Council)

8. How many people in the town have a licence to keep a tiger, lion, leopard, lynx or panther as a pet? (Scarborough Council)

9. How many requests were made to council-run historic public-access buildings requesting to bring a team of ghost investigators into the building? (Birmingham Council)

10. How many children in the care of the council have been micro-chipped? (Southend Council)

**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.

CLEANERS – NEEDLESTICK INJURY – CARPET TILES

Kaur v Walsall Metropolitan Borough Council, 08.07.14, Walsall County Court

The claimant, C, was employed by the defendant, D, as a school cleaner. As C was sweeping the textiles classroom floor after a sewing lesson, C, wearing trainers, stepped on a needle stuck vertically in the floor. The eye of the needle pierced her foot, causing an injury from which C largely recovered after four weeks.

C claimed damages from D, alleging her injury was caused by D's breach of duty. Her allegations included breach of the Workplace (Health, Safety and Welfare) Regulations 1992 by failing to maintain the workplace in an efficient state, and breach of the Management of Health and Safety at Work Regulations 1999, by failing to carry out a suitable risk assessment of C's work.

C also alleged negligence, alleging D failed to remove the needle or warn C of its presence, failed to collect needles at the end of the class and failed to inspect the room after the lesson.

D denied liability, contending that the incident did not amount to a failure to maintain the workplace in an efficient state. D said the textiles classroom floor was changed in 2010 from linoleum to highly durable carpet tiles, "Burmaterx (4200 sidewalk)", widely used in schools, commercial premises and public buildings.

D further argued it had carried out a suitable risk assessment and cleaners, including C, were provided with appropriate personal protective equipment, including footwear. D also argued that C's job included removing debris, including needles, from the classroom floor and she had undergone appropriate health and safety training. D alternatively alleged C's contributory negligence, in C failing to look where she was stepping.

The judge noted C's health and safety training and that D's risk assessment, regarding 'sharps', only concerned items in waste bins.

The judge held D had failed to take sufficient steps to protect C from the risk of injury. Changing the flooring from linoleum to carpet tiles created an obvious and specific risk. This, the judge held, should have been risk assessed because carpet tiles increased the risk of injury as it was foreseeable that needles and pins could present a hazard by standing upright in carpet. The judge also said C should have been wearing footwear that could resist puncture.

The judge held D liable for failing to take reasonable care for C's safety. C was awarded £1,000 general damages, 28 hours of care at £6.74 per hour, travel expenses, and costs. The judge refused to make an award for "miscellaneous expenses".



This fortunately minor incident nonetheless alerts customers to the importance of risk assessing specific risks that might be created through change. Here, the judge said the change of type of flooring was the "trigger point" creating the specific risk that pins and needles might fall and land upright in the carpet tiles. Generally risk assessing 'sharps' only in waste bins was an insufficient assessment of the risk of sharp items in the textiles classroom. Further, suitable training and protective footwear should have been provided for the specific new risk created by the changed flooring.

TRIP – EVIDENCE OF ADEQUATE INSPECTION SYSTEM

Bishop v Walsall Metropolitan Borough Council, 23.04.14, Walsall County Court

In mid-August 2011, the claimant, C, was walking in a pedestrianised shopping area in Willenhall when she tripped over a protruding paving stone. She fell, sustaining shock and a fractured wrist.

C claimed damages for her injuries from the defendant highway authority, D, alleging negligence and breach of duty under s.41 of the Highways Act 1980 (the Act). Her allegations included that D allowed the paving stone to present a danger to pedestrians by becoming unstable, rocking and defective. C alleged D failed to repair the defect, failed in its duty to maintain the highway, and exposed her to a foreseeable risk of injury.

D denied liability, relying on its statutory defence under s.58 of the Act. It said it maintained the area sufficiently, carrying out a two-monthly inspection. On inspection at the end of June 2011 the area was not regarded as carrying a defect of intervention level. In mid-July the area was logged for slabs to be repaired swiftly. Due to a water leak, the repairs were postponed to September, after the water leak was repaired.

D also argued contributory negligence by C failing to take care for where she was walking.

The judge held the area was defective and dangerous to pedestrians. D had not taken all reasonable care in the circumstances – its inspection and repair system was inadequate. The court held the defect, in a busy pedestrianised area, should have been urgently repaired in July. The claim succeeded. The court awarded C damages of £16,860 and costs.



This illustrates that, despite the pressures on highways authorities, it is important to be able to demonstrate the operation of a suitable inspection, maintenance and repair regime to be able to rely on s.58 of the Act to defend allegations of breach of the s.41 duty.

SPORTS CENTRES – SLIP ON DAMP FLOOR

Swinfield v Leicester City Council, 02.04.14, Leicester County Court

The claimant, C, visited a circuit training class at a sports centre run by the defendant, D. During the class, C slipped and fell, causing her injuries for which she claimed damages from D. She was aged 44 at the time of the accident.

C alleged D's breaches of duty to her, under the Occupiers' Liability Act 1957 (the Act), caused her injuries. Her allegations included that D caused the floor to be wet which created a hazard to C, that D failed to operate a suitable inspection or cleaning system, failed to provide a suitable surface for the activity, and failed adequately to supervise or instruct its employees.

D denied liability, contending that the sports hall, where the class took place, was subject to regular checks, risk assessments and daily cleaning. D said the floor is inspected before each class and two attendants ("spotters") are present during the class to mop up as required during the session. It argued the material C slipped on was sweat, not water from outside. Further, an anti-slip coating was applied to the floor approximately two years before the accident.

D also or alternatively argued contributory negligence of C, saying she failed to look where she was stepping.

On the day of the accident it had been snowing, resulting in visitors, who had entered via the emergency exit, bringing water from their footwear into the sports hall. The court noted that D's post-accident risk assessment had identified that, if the floor surface became wet, there was a risk of slipping. D accepted that it was reasonably foreseeable that, when water was on the floor, there was a risk of a person slipping.

The court held there was no evidence that the two "spotters" in attendance took any action regarding the water on the floor, or that they had been trained to mop up. The court also held there was no mat outside the hall and that, had one been in place, it would have soaked up much of the water, substantially reducing the risk of injury.

The court held that, while D had a system in place to deal with water on the hall floor, it did not properly operate that system.

The judge rejected the allegations of contributory negligence and held in favour of C, awarding her damages of £2,250 plus interest and costs.



This provides an example of the potential difficulties created where there is insufficient evidence as to the cause of a person slipping. Here there was no clear evidence that the material on which C slipped was water, but also insufficient evidence that it was sweat, as D argued. The court considered D's cleaning and inspection system, ruling it had not been properly operated on the day of C's accident and that, on balance, the material on the floor was probably water. This highlights the importance of recording as much information as swiftly as possible post-accident, and of being able to demonstrate that an inspection system had properly been in operation at the time of the accident.

FOSTER CARERS – FIRE AT FOSTER HOME – CHILDREN ACT 1989

Whelan v (1) Milton Keynes Council and (2) Barr, 16.07.14, Peterborough County Court

When aged 14, the claimant, C, in the care of the first defendant, D1, was placed with the second defendant foster parent, D2. Another boy, X, of similar age to C, was also placed with D2.

D2 was having an extension built to her home. C said he and X were alone in the property and that petrol cans were in the garage, one without its lid, and some petrol had spilled on to the floor. C said X, while alone in the garage, had discarded a lit match near the open petrol can, igniting the spilled petrol. C said as he entered the garage, the petrol cans exploded, engulfing him in flames. He sustained extensive burns.

C claimed damages from the defendants, alleging negligence and breach of duty under s.22 of the Children Act 1989 (the Act). He alleged that D1 failed to inspect D2's property before placing him there, failed to ensure it was a suitable and safe home, and failed to assess D2 as a suitable foster carer.

C's allegations against D2 included that she failed to supervise C or X properly, and stored petrol unsafely.

D1 denied liability, disputing C's right under the Act to bring a private law claim. D1 denied the other allegations and argued contributory negligence of C, relying on police evidence that C said he was sorry and should not have been "messing around with fire".

D2 also denied liability, saying she did not leave C and X alone, and petrol was stored in the locked shed, not the garage.

At trial, the judge said the evidence was unclear as to how the accident occurred as C had given various accounts. The judge found C's evidence inconsistent and unreliable. He said that what probably occurred was that the builders stored their equipment, including petrol, in the shed and locked it. The boys gained access to the shed, took the petrol to the garage and ignited it.

The judge said it is normal for householders to store petrol in a shed to use, for example, in petrol lawnmowers. D2 did not store the petrol unsafely, nor did she leave C alone. C and X had been left in the village and told to wait there for her, but they disobeyed her.

C belatedly argued D1 owed C a non-delegable duty of care, under the principles set out by the Supreme Court in *Woodland v Essex County Council* (Court Circular, January 2014). In that ruling, the Court gave guidance as to the circumstances under which a public authority would owe a non-delegable duty. The court considered that ruling but held D1 had not breached any duty to C. The claim was dismissed.



This again illustrates the importance of cross-checking claimants' statements, as the claim progresses, with the initially pleaded allegations and statements made to expert witnesses. The claim also briefly referred to the important Supreme Court judgment in *Woodland*, as above, providing a reminder of the circumstances under which a public authority may owe a non-delegable duty of care.



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Summary

Here is an overview of your results in each area. Please see later sections for breakdowns of these results.

Enablers	Leadership & Management	Awareness	Happening	Working	Embedded & Integrated	Driving
	Policy & Strategy	Awareness	Happening	Working	Embedded & Integrated	Driving
	People	Awareness	Happening	Working	Embedded & Integrated	Driving
	Partnerships & Shared Resources	Awareness	Happening	Working	Embedded & Integrated	Driving
	Processes	Awareness	Happening	Working	Embedded & Integrated	Driving
Results	Risk Handling & Assurance	Awareness	Happening	Working	Embedded & Integrated	Driving
	Outcomes & Delivery	Awareness	Happening	Working	Embedded & Integrated	Driving

Level Guide:

Awareness	<20%
Happening	20 - 45%
Working	45 - 70%
Embedded & Integrated	70 - 85%
Driving	85%+

APPENDIX D

Alarm CIPFA Risk Management Benchmarking Club 2014 – Comparison to 2013

Category	NLC Result 2013	Club Average 2013	NLC Result 2014	Club Average 2014	Direction of Travel
Leadership & Management	79	76	84	74	↑
Policy & Strategy	74	77	77	77	↑
People	83	76	83	75	=
Partnerships & Resources	66	70	68	70	↑
Processes	87	78	87	76	=
Risk Handling & Assurance	73	71	73	70	=
Outcomes & Delivery	75	68	81	69	↑
Overall Score	537		553		↑

Maximum score of 100 for each strand

Maximum total score of 700