

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 For the Audit Committee to note the latest Strategic Risk Register. The strategic risk register enables the Council to meet its statutory requirements under the Accounts and Audit Regulations 2015 Part 2 paragraph 3. "A relevant authority must ensure that it has a sound system of internal control which – (c) includes effective arrangements for the management of risk".
- 1.3 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. The updated strategic risk register is 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. 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 22nd edition of the Risk Roundup newsletter was also issued in December (appendix B) and included important articles on significant risk topics such as cyber risks and health and safety breach in a North Yorkshire County Council school and a breach of equality and transparency.
- 2.4 CIPFA/ALARM 2015 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 5 areas were evaluated at level 4 (Embedded and Integrated) and 2 areas at level 5 (Driving). A comparison of results between 2014 and 2015 is also provided in appendix D. This shows positive direction of travel across all benchmarking factors.
- 2.5 The annual review of directorate operational risk registers has been concluded. Overall the standard was found to be much improved and only minor comments were made to risk champions/ owners.
- 2.6 The implementation of an Audit, Risk, Fraud and Insurance shared service with North East Lincolnshire Council is progressing well. Further details are provided in the Internal Audit Progress report elsewhere on this agenda.

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

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB

Author: Carol Andrews/Caroline Wilson

Date: 22 December 2015

Background Papers used in the preparation of this report: None

Strategic Risk Register – 2015/16

Strategic Risks (Council Priorities)	Strategic Risk Lead	Current Significant Risk Components	Risk Lead
1. Failure to deliver council priorities and services	Simon Driver	<p>Excellence in Customer Service</p> <p>Make our communities safer and stronger</p> <p>Regenerate our area and increase prosperity</p> <p>Achieve good value for taxpayer's money</p> <p>Delivery of effective devolution arrangements for the area</p>	<p>Peter Williams</p> <p>Denise Hyde & Frances Cunning</p> <p>Marcus Walker</p> <p>Simon Driver</p> <p>Simon Driver</p>
<p>2a. Failure to safeguard the community</p> <p>2b. Failure to safeguard vulnerable adults and children</p>	<p>Simon Driver</p> <p>Simon Diver</p>	<p>Delivery of the Prevent Strategy</p> <p>Meeting statutory duties in relation to adults and children</p> <p>Implementation of new legislation:</p> <ul style="list-style-type: none"> • Children & Families Act • Care Act <p>Better Care Fund</p>	<p>Stuart Minto</p> <p>Denise Hyde</p> <p>Mick Gibbs Karen Pavey</p> <p>Becky McIntyre</p>
3. Inadequate emergency planning and business continuity arrangements to manage the impact of major emergencies and business disruptions	Simon Driver	<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</p>	<p>Trevor Laming</p> <p>Trevor Laming</p>

		<p>impact of a major emergency or business disruption</p> <p>Contamination e.g. Radon Gas</p> <p>Public Health Outbreak e.g. Avian Flu</p> <p>Effective management of flooding/adverse weather by investing in flood defence works</p>	<p>Trevor Laming</p> <p>Frances Cunning</p> <p>Chris Matthews</p>
4. Failure to meet the MTFP	Simon Driver	<p>Achieve identified budget savings</p> <p>Delivery of Transformation Plans</p> <p>Impact of national financial conditions on local availability of funds</p> <p>Delivery of the council's Commissioning Programme</p> <p>Delivery of Shared Service Back-office Hub Transformation Programme</p>	<p>Simon Driver (supported by Directors)</p> <p>Simon Driver (supported by Transformation Plan leads)</p> <p>Mike Wedgewood</p> <p>Jason Whaler</p> <p>Mike Wedgewood</p>
5. Economic condition resulting from national or local problems including closure of a major employer	Peter Williams	<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>

6. Failure to improve the health and wellbeing of the population	Frances Cuning	Meeting statutory duties in relation to Health & Wellbeing Delivery of effective advice and guidance around Welfare Benefits	Frances Cuning Mike Wedgewood
7. Inadequate workforce planning and management to meet current and future needs	Mike Wedgewood	Impact on workforce following funding reductions (e.g. redeployment, skill retention, impact of shared service models)	Helen Manderson
8. Failure to deliver major projects/capital programme	Peter Williams	Delivery of Waste Management Strategy Delivery of Lincolnshire Lakes Delivery of Able UK Transforming Customer Access Securing S106s	Chris Matthews Marcus Walker Marcus Walker Nolan Bennett Marcus Walker
9. Failure to maintain effective governance arrangements	Mike Wedgewood	Implementation of new legislation e.g. Implementation of the Counter Terrorism & Security Act Effective Partnership Governance arrangements Compliance with Health & Safety Legislation	Will Bell Jason Whaler Helen Manderson
10. Serious breach of information/loss of ICT systems	Mike Wedgewood	Information Governance breaches Cybercrime attacks Failure to comply with PSN Code of Connection controls	Jason Whaler Jason Whaler Jason Whaler

11. Failure to maintain the council's reputation	Mike Wedgewood	Appropriate use of new media opportunities (insufficient guidance and support) Delivery of the Communications Action Plan	Will Bell Will Bell
--	----------------	--	----------------------------

RISK

roundup

Issue 22
December 2015



A digest of
risk management issues

Cyber Risks

Organisations are facing an ever growing volume of potential IT security threats or cyber attacks. Government figures indicate that 90% of large organisations and 74% of small organisations report that they have suffered an IT security breach. This represents a 9% year on year increase for large organisations and over 20% increase for smaller businesses.

Cyber attacks are becoming more common, causing disruption to services in varying degrees. NTT Com Security says in its 2015 Global Threat Intelligence Report, that public sector organisations are the number one target for malware attacks in the UK. Nearly 40% of malware attacks were against public sector organisations. The survey found that worldwide financial services continues to be the most targeted sector with 18% of all detected attacks. But in the UK market the number of malware attacks against public sector organisations was three times more than the next sector, insurance (13%) and nearly five times more than the media and finance sectors (both 9%).

Prevention is difficult, as we need to open up our services to the internet (website or email system). Common risks are detailed below:

- **Phishing.** An attempt to acquire users' information by masquerading as a legitimate entity. Examples include spoof emails and websites.
- **Malware/spyware or adware.** To take control of your PC and/or to collect personal information without your knowledge.

- **Trojans.** To create a 'backdoor' on your PC by which information can be stolen and damage caused.
- **Viruses.** Gain access to steal, modify and/or corrupt information and files from a targeted computer system. A small piece of software program that can replicate itself and spread from one PC to another by attaching itself to another computer file.
- **Social Engineering.** Tempting an individual to click malicious links, or by physically gaining access to a computer through deception. Phishing is an example of social engineering.
- **DDoS.** A denial-of-service (DoS) or distributed denial-of-service (DDoS) attack is an unauthorised attempt to make a PC/server or network resource, such as a website, unavailable to its intended users. The attack temporarily or indefinitely interrupts services connected to the Internet. For example, users are unable to access websites or email.

The actions of employees also represent a potential threat. For example, say an employee unknowingly brings in a USB memory stick that has malware on it. When the employee plugs the USB stick into their work laptop, the malware is transferred, resulting in data being gathered and then being sent outside the council network. Many employees' home networks are not secure. This increases the possibility of malware being transferred from home network to corporate network via laptops, tablets and other electronic devices.

Cyber Risks cont.

NLC IT Security Protection and Prevention

NLC adopts a strength in depth approach to IT and information security with the aim to reduce and mitigate the risk of security incidents. Listed below are some of the key elements to support this approach and all work together to prevent the types of security risks identified above.

- Firewalls at Internet Service Provider (ISP) and NLC levels (security devices that allow/block traffic and monitor)
- Intruder Prevention Systems (systems designed to prevent and alert to attacks)
- Protective monitoring (security event altering carried out by our ISP and NLC)
- PC antivirus systems (prevention of viruses on each PC)
- USB controls
- Email/internet antivirus/spam systems (protect email and internet browsing)
- Operating system firewalls (security deployed to each PC)
- Microsoft firewalls for web services such as the Website (security for web applications)
- Annual IT Health Check (external IT Security Assessment part of the PSN compliance)

- Patch management systems (software update systems to remove known vulnerabilities)
- IT & Information Security Forum (internal security group of officers that meets bi-monthly)
- Physical security of buildings and Data Centres (door entry systems etc)
- PSN Compliance Programme (central government led compliance programme)



Survey looks at top emerging UK risks

According to an ORIC International and Institute of Risk Management (IRM) joint survey, cyber risk, the prolonging of Ebola pandemic and more regulatory and legislative changes are the top three priority risks for UK insurers in 2015.

Emerging risk was defined by those surveyed as newly developing risks with potential to cause significant business impact that may not yet be sufficiently understood.

According to the survey, the top ten emerging risks for insurers are:

- 1 Cyber Risk
- 2 Pandemic – Ebola
- 3 Further regulatory or legislative change
- 4 Eurozone collapse/UK withdrawal from the EU
- 5 Terrorist attack
- 6 Significant changes in broker power/distribution chains/broker communities
- 7 Shift in affluence to emerging markets i.e. South East Asia
- 8 Climate change including solar weather
- 9 Global political instability
- 10 Technological advances

Emerging risk was defined by those surveyed as newly developing risks with potential to cause significant business impact that may not yet be sufficiently understood.

High Court judge finds council made manifest errors in £10m tender evaluation

Woods had submitted the cheapest of the five tenders, but lost out to EAS (by 3%) over the council's evaluation of the quality criteria.



A council made a number of manifest errors in its tender evaluation process for a £10m framework agreement for asbestos removal and reinstatement services, a High Court judge ruled.

Mr Justice Coulson also ruled in *Woods Building Services v Milton Keynes Council (2015)* that there were certain instances when the council had been in breach of its duties of equality and transparency.

Taken together, the judge's conclusion reduced by 40 the

marks awarded to European Asbestos Services (EAS), to whom Milton Keynes had sought to award the contract, and increased by 6 the marks that should have been awarded to Woods, the incumbent provider and the claimant in the proceedings.

"It is for counsel to tell me what affect that has on the overall weighted scores but I am confident that this will mean that Woods outscored EAS so that there should have been a different result" Mr Justice Coulson said.

Woods had submitted the cheapest of the five tenders, but lost out to EAS (by 3%) over the council's evaluation of the quality criteria.

A further hearing is to be held on the remedy to be granted to the claimant as a result of the judge's findings.

According to the counsel to Woods, this was the first case in which an English court had set aside a public body's contract award decision under Public Contract Regulations 2006. He highlighted that:

- The council's evaluation of 8 of the 12 award criteria was unlawful: and
- In relation to two of the award criteria where the council had purported to award EAS scores 10/10, the EAS tender response should have scored 0/10.

Top 10 bizarre queries to council call centres

A request for help with a crossword clue, advice on cooking instant noodles and an enquiry about a website's opening hours have been among the 50 million queries made to council call centres in the last year.

Top 10 bizarre queries to council call centres - What time does your website close? (Poole Borough Council)

Bizarre calls top 10:

- 1 Do you know how much water I need to cook super noodles? (Stevenage Borough Council)
- 2 What are the rules and regulations for hosting a mouse race? (Somerset County Council)
- 3 Can I exercise my kestrel on your tip? (Nottinghamshire County Council)
- 4 A call from an elderly lady asking for help on her crossword. Seven letters, James Bond's cat loving nemesis, begins with B? (Staffordshire County Council)
- 5 What is the daily room rate at the Holiday Inn express? (Stevenage Borough Council)
- 6 What size tin is required for the Mary Berry strawberry tart, featured on the BBC's Great British Bake Off? (Somerset County Council)
- 7 I met a boy whilst on holiday in Ibiza, but I have lost his number, he said he lived in Nottingham and his dad is a bin man, do you know him? (Nottinghamshire County Council)
- 8 How many geese are on the boating lake in Cleethorpes this year – caller wanted to visit but had an allergy to feathers (North East Lincolnshire Council)
- 9 What time does your website close? (Poole Borough Council)
- 10 How high is Mt Kilimanjaro? (Somerset County Council)

Council prosecuted after schoolboy severs finger in class

North Yorkshire County Council was fined £5,000 and ordered to pay £28,287 in costs after admitting a breach of the Health & Safety at Work etc Act 1974.

North Yorkshire Council has been prosecuted after a 14 year old boy needed a finger amputated after it got tangled in a lathe during a lesson at Knaresborough's King James' School.

The pupil was using a polishing cloth by hand on a work piece as it rotated on a manual metal lathe during a design and technology class when the incident occurred on 19 November 2013. The boy's right hand became entangled around the work piece and severed part of his index finger. There were six other mini lathes in use by pupils in the same class.

After an unsuccessful operation to reattach the

finger, the pupil needed to undergo further surgery to amputate the finger to below the first joint. He has needed several physiotherapy and occupational therapy sessions.

The Health & Safety Executive (HSE) investigated and brought the prosecution after finding the Council had failed to identify that the practice of hand-polishing on metal lathes was unsafe despite being used for several years at the school.

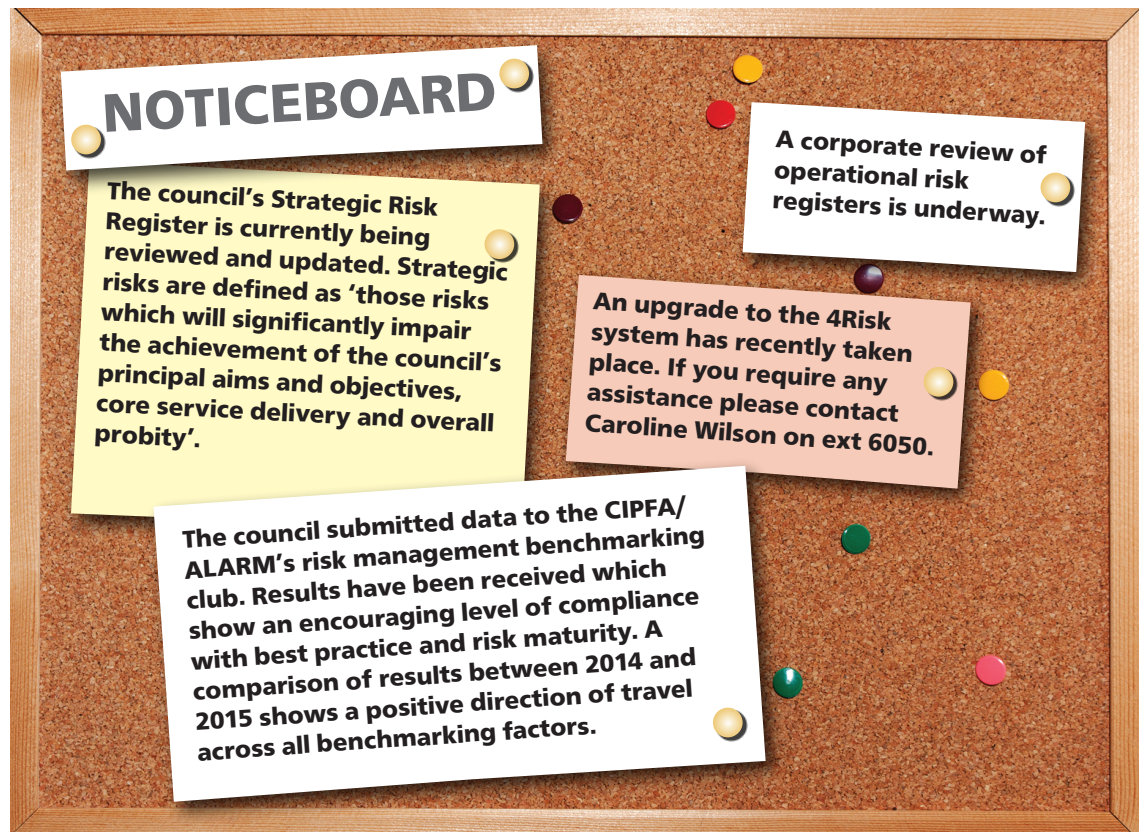
Leeds Crown Court heard on 13 July 2013 that after the incident, HSE served a prohibition notice on the Council, halting any use of hand-held polishing cloths on

the lathes at the school and advising the authority to take action to ensure similar practices were not underway at other schools under its control.

HSE's investigation found that the Council's assessment of potential risks of using of the lathes had failed to consider all the tasks undertaken on the machine and so had not identified the unsafe system being used by pupils. As such, pupils were routinely put at risk of injury.

North Yorkshire County Council was fined £5,000 and ordered to pay £28,287 in costs after admitting a breach of the Health & Safety at Work etc Act 1974.

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.

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

SCHOOL PREMISES – FALL THROUGH SKYLIGHT – TRESPASSERS

Buckett (A protected party, by his mother A Buckett) v Staffordshire County Council, 13.04.15, High Court

The claimant, C, was a pupil at a school for which the defendant, D, was responsible.

One Sunday afternoon during the May 2010 half-term holiday, C and some of his friends went to play football in the school grounds. Later, they walked around the school premises, misbehaving. They broke into the tuck shop, stole sweets, food and drinks, and broke into other areas of the school premises, stealing computer games.

The youths also climbed on several of the school's roofs. C jumped on to a skylight, made from panes of un-strengthened "Georgian" wired glass. He fell straight through and sustained severe injuries, including a fractured skull.

C, through his mother and litigation friend, claimed damages from D for his injuries. C accepted he was a trespasser at the time of his accident, basing his claim on a breach of s.1 of the Occupiers' Liability Act 1984 (the Act).

D denied liability and denied the Act applied to this case. It agreed that C was a trespasser but argued that C's accident was not caused by the deficient state of D's premises.

D also relied on the defence of illegality – *ex turpi causa* – contending that C and his friends had been engaged in a series of criminal acts by breaking into and stealing from the school premises. D also argued contributory negligence.

The court first considered the foreseeability of pupils gaining access to the school grounds out of school hours, and trespassing on them. The court held this was foreseeable – records indicated there had been several incidents of pupils gaining access to the school out of hours, usually to play in the grounds.

The court also held that youths could fairly easily gain access to the lower, single storey roofs. From these, they could access the higher roofs. It was foreseeable that youths climbing to the higher roofs could come

into close proximity of the skylights. Although the youths in this case had earlier engaged in criminal activity, this had ended by the time they had accessed the higher roofs.

The court held that C would have jumped on to the skylight assuming it would hold his weight. The skylight was an obvious feature within the roof. Neither the skylight nor the roof was defective or needing repair, and the skylight was not intended to be walked on.

The court said that C's injuries were caused by his own decision to jump on to the skylight. D did not owe C a duty to control that activity, even though it was foreseeable that trespassers might climb on to the roof. The court held that it was not foreseeable that youths would climb on to the roof and jump onto the skylight.

Although the court found in C's favour on many factual issues, the court held that C had not proven, under s.1(1) of the Act, that his accident was caused by the dangerous state of the premises, or by things done or failed to have been done on them or to them.

The court held that D did not owe C a duty of care under the Act. The claim was dismissed.

COMMENT

The High Court has, in this ruling, reiterated the circumstances under which a defendant occupier will be liable, under the 1984 Occupiers' Liability Act, for injuries a trespasser sustains while trespassing on the premises in question. The circumstances include that the occupier knew or should have known that the premises were in a dangerous condition, that it was foreseeable that a trespasser would be injured while trespassing, that the injury was due to things done or omitted to be done on the premises, and that the occupier was under a duty to have repaired the premises.

OCCUPIERS' LIABILITY



OCCUPIERS' LIABILITY – SCHOOL PREMISES – SLIP ON ICE

Clougher (a minor, by his litigation friend, J Clougher) v Walsall Metropolitan Borough Council, 26.02.15, Birmingham County Court

The claimant, C, was a pupil at a school in Birmingham which was managed and controlled by the defendant, D.

In December 2010, snow had fallen but the pupils were permitted to play outside. During this time, C slipped on a concrete slope between the school building and the playground.

C claimed damages from D for the injury he sustained from having slipped. His allegations included that the area was not reasonably safe, that the slope had not been gritted, and that it had not been cordoned off.

D denied liability. Its defence included that the slope did not form part of the playground and that it was out of bounds to children, in all weather conditions, as C had been told on numerous previous occasions.

The judge accepted that the children knew the slope was out of bounds – there were well established and publicised school rules stating this.

The judge also accepted D's evidence that C had been repeatedly told, on the day of his accident, not to play on the slope but he continued, in defiance of the instruction, until he sustained his injury.

The judge held that the slope itself did not present a danger and D was not obliged to cordon it off.

The judge held that the children were adequately supervised on the day in question and D could not reasonably have done anything more to prevent the accident.

The claim was dismissed.

COMMENT

This provides a clear example of the importance of a defendant responsible for a school, being able to provide persuasive evidence satisfying the court that all reasonable measures had been taken for the safety of children playing in the playground. The supervision levels were suitable, the area alleged to be dangerous was held not to be a danger, children knew the area was out of bounds to them, and the injured child defied repeated instructions not to play at the area concerned.

NEGLIGENCE

PUBLIC SWIMMING POOLS – CHILD’S SUBMERSION – DUTY OF LIFEGUARDS

RXDX (by his mother, SXDX) v Northampton Borough Council and DXDX (Third party), 11.06.15, High Court

In February 2002, the claimant, C, who was aged six, was taken by his father, F, to a public swimming pool operated by the defendant, D.

A man was in the pool teaching his child to swim when his attention was drawn to C lying at the bottom of the pool. The man quickly lifted C out of the pool and the lifeguard was informed. An ambulance was called and resuscitation attempts saved C’s life. He has, however, suffered brain damage due to oxygen deprivation.

C claimed damages from D for his injuries. His allegations included that D was vicariously liable for the negligent failure of the lifeguards to take reasonable care for C’s safety while in the pool.

D brought Part 20 proceedings against F, alleging he failed to exercise proper parental care over C. F did not respond to the proceedings but, by an earlier court order, F was regarded as having admitted his fault. F has no significant financial means and no relevant insurance.

The court heard that C could not swim. It is not known how C became submerged, although he was found to have a graze on his head. He was in an area where he could stand up in the pool with his head above the water. Experts considered he was deprived of oxygen for between two and a half and five minutes.

Four lifeguards were on duty at the time, three of which were close to where C was found. They had said they were puzzled as to how this accident could have occurred, with so many of them near to where C had been found.

The court held that C must somehow have lost his balance. Experts were not surprised he had not made a splash or commotion, as “silent drowning” is common in such situations. The court held that C should have been under observation before he entered the pool, and should have been under observation during what should have been 10-second scans.

The court held that the lifeguards failed in their duty of care to C by failing to identify him as a child at risk, and failing to continue scanning the pool, including the bottom of the pool, to check that he was not in difficulty. Had they not failed in their duty, they would have registered his submersion within seconds of it; C could and should have been rescued within 30 seconds of submersion.

The court held that D was responsible for its lifeguards’ breach of duty to C. Further, there is a causal link between that breach and C’s injuries.

The court ruled in C’s favour and damages will be assessed at a later date if not agreed.

COMMENT

This claim slightly differs from the well-known ruling in *Woodland v Maxwell and Essex County Council* in that it does not involve an accident during an external school swimming session. However, this claim does highlight the very high degree of responsibility on lifeguards, and the critical importance of them carrying out their duties competently, particularly when young children, who are unable to swim, enter the pool.

SCHOOLS

ACCIDENT IN PLAYGROUND – CHILDREN WITH DISABILITIES – CAUSATION

Debbage (by his friend T Richer) v Norfolk County Council, 09.04.15, Norwich County Court

The claimant, C, has a medical condition causing him disabilities including learning difficulties and difficulty in walking. Since he was aged eight, C has attended a special needs school in Norwich.

When he was aged 13, C went on a school trip with a group comprising eight pupils and four staff. The trip included a visit to a local playground. While playing, C sustained injuries after apparently falling from a ladder attached to a slide. He was off school for three days after the accident.

C claimed damages for his injuries from the defendant, D, who is responsible for the school. C’s allegations included that D negligently failed to take reasonable care for C’s safety.

D denied liability and disputed the nature of the injuries allegedly sustained in the accident.

The court considered detailed medical evidence and concluded that C would only have suffered relatively minor soft tissue injuries when he fell. He only missed three full days of school after the accident. C had at some point sustained a fracture which he said he sustained in the fall, but the judge held that, had that happened, C would have been absent for several weeks.

With regard to the duty of care, the court noted that the duty owed by teachers to pupils in their care is to take such care as a reasonably careful parent would exercise. The duty takes account of the conditions of school life, the number of pupils in the class and the nature of the children. The duty does not require teachers to ensure that children do not suffer injury from ordinary play in the playground or the classroom. When teachers know that pupils suffer from particular disabilities, a higher standard of care is required.

The court noted that C had not submitted any evidence challenging the school’s systems of addressing C’s special needs. There was no allegation, or reference in C’s Statement of Special Educational Needs, that C required one to one supervision when playing on the school slide or in the school playground.

The court held that D’s standard of care, exercised by the school, did not fall below that to be expected of a reasonably careful parent, taking C’s disabilities into account. The school was rated very highly by Ofsted. No risk assessment of the playground equipment was necessary because C’s needs had been carefully assessed and he was considered capable of playing safely on the playground equipment.

The judge said that a ratio of four teachers to eight pupils with special needs was entirely reasonable. Although no-one witnessed C’s accident, this did not reflect adversely on the level of his supervision.

The claim was dismissed.

COMMENT

This claim focuses on the extent of duty owed by teachers to pupils – particularly those with special needs – in their care. The duty owed is akin to that of a reasonably careful parent, given the disabilities or special needs the child has. The duty does not impose a requirement for teachers to ensure that children do not suffer any injury at all while playing or going about school life in a way that is normal, bearing in mind their circumstances.

Summary of the results for NLC

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
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 2015 – Comparison to 2014

Category	NLC Result 2014	Club Average 2014	NLC Result 2015	Club Average 2015	Direction of Travel
Leadership & Management	84	74	86	83	↑
Policy & Strategy	77	77	81	81	↑
People	83	75	84	77	↑
Partnerships & Resources	68	70	78	70	↑
Processes	87	76	88	81	↑
Risk Handling & Assurance	73	70	74	74	↑
Outcomes & Delivery	81	69	81	68	↑
Overall Score	553		572		↑

Maximum score of 100 for each strand

Maximum total score of 700