

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 In April 2018 we informed the Audit Committee that a new risk system had been implemented. The system has been well received and has helped to further embed risk management across the council. In addition a number of workshops have been held by the Strategic Lead Risk and Governance across the services to provide training on the system as well as updating operational risks.
- 2.2 Work is on-going to review the council's Strategic Risk Register. This is to be underpinned by a self-assessment approach to consider the risk environment of the organisation. This will support the Annual Governance Statement and inform the council's Strategic Risk Register.
- 2.3 Risk management training was provided by the council's insurers, Zurich Municipal, to the Extended Leadership Team in November 2018. The presentation, Implementing Enterprise Risk Management, outlined the importance of risk management and the processes to follow. This was well received by the Group.
- 2.4 Further risk work carried out includes:
 - The publication of the latest edition of the Risk Roundup newsletter (appendix A). The newsletter includes important articles on significant risk topics such as Child Criminal Exploitation, health and safety, information governance and fraud.
 - The review of the Risk Toolkit which defines processes and provides guidance.
 - A review of the council's operational risks.

2.5 As part of the 2018/19 internal audit programme Lincolnshire County Council will be conducting an independent review of the council's risk management arrangements. The findings from this review will be reported at a future Audit Committee meeting.

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 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

RISK ROUNDUP



A digest of risk management issues

Issue 29 December 2018

Safeguarding Risks

1 County lines exploitation

The gangs seek to fill that emotional gap for the child and become 'their family'.

County lines is the police term for urban gangs supplying drugs to suburban areas, market and coastal towns using dedicated mobile phone lines or 'deal lines'.

It involves child criminal exploitation (CCE) as gangs use children and vulnerable people to move drugs and money by using intimidation, violence and/or grooming. One of the key factors found in most cases of CCE is the presence of some form of exchange e.g. carrying drugs in return for something. Gangs establish a base in the market location, typically by taking over the homes of local vulnerable adults by force or coercion in a practice referred to as 'cuckooing'.

Gangs specifically target vulnerable children and those who do not have support networks. Children with special education needs, mental health problems or disabilities are known to be purposely targeted. Gangs also look for emotional vulnerability, such as children experiencing problems at home, absent/busy parents or bereavement. The gangs seek to fill that emotional gap for the child and become 'their family'. Children who have been placed out of their home are particularly vulnerable.

Male children are most commonly exploited but female children are also used. It is thought that 15-16 years is the most common age to be exploited but there are reports of children below the age of 11 being used. Gangs are increasingly looking to recruit 'clean skins' i.e. children with no previous criminal record who are unlikely to be stopped by police, including children from white and middle class backgrounds. Social media is also used to make contact with children and young people.



Gangs often use threats, coercion and violence to force children to do what they want. They punish gang members for making mistakes or failing to meet drug sales targets. The punishments are extremely violent such as stabbings and acid attacks. Gangs may also trick children into getting into debt, for example, by giving them a mobile phone only to later demand repayment for the cost of the phone. The child will then be in 'debt bondage' to the gang owing it labour or services as security for the repayment for the debt.

It may not be easy to identify that a child is a victim of gang exploitation however some indicators are listed below:

- Persistently going missing from school or home
- Unexplained acquisitions of money, clothes or mobile phones
- Excessive receipt of texts/phone calls
- Relationships with controlling/older individuals
- Suspicion of physical assault/unexplained injuries
- Carrying weapons
- Significant decline in school results/performance
- Self-harm or significant changes in emotional well-being.

Health & Safety Risks

2 Council fined after child suffers chemical burns

The child noticed a white substance on his trousers and his skin had developed red and brown patches.

Comhairle Nan Eilean Siar, the local authority which covers the Western Isles, was today fined after a boy suffered chemical burns.

Stornoway Sherriff Court heard how, on 11 July 2017, employees of the local authority had cleaned the slipway and steps of the pier in Uig using sodium hypochlorite. Later that day, two children were crabbing and lying on the steps of the pier, when one of the children felt a stinging sensation across his leg. The child noticed a white substance on his trousers and his skin had developed red and brown patches. The child was taken to hospital where it was confirmed that they

had sustained a chemical burn from the sodium hypochlorite.

An investigation by the Health and Safety Executive found that due to the council's failure to wash away the solution, or cordon off the area, the children were able to access the area. The investigation also found the risk assessment in place did not consider there was a risk to members of the public.

The local authority pleaded guilty to breaching s3(1) of the Health and Safety at Work Act 1974 and was fined £12,000 and ordered to pay a compensation order of £6,000.

3 Council pays £33,000 compensation after child killed by unstable gravestone



The boy suffered fatal head injuries.

Harrogate Council has paid £33,000 in an out of court settlement to the parents of a six year old boy who was killed when a tombstone fell on him. The boy suffered fatal head injuries.

The boy's mother, who witnessed the tombstone being lifted off her son, has suffered from depression and post-traumatic

stress disorder. The payment made by the local authority, who has not admitted liability, is mainly in recognition of the trauma suffered by the boy's mother.

Evidence obtained by solicitors working on the claim showed the council was aware of the potential dangers posed by the old tombstones located in the cemetery.

Information Governance Risks

4 Councils hit by 100 million cyberattacks over 5 years

56% of councils who experienced a loss or breach did not report it.

Local authorities suffered nearly 100 million cyberattacks from 2013 to 2017, according to a civil liberties campaign group.

At least one in four councils had experienced a cybersecurity incident over the same five year period, Big Brother Watch found through freedom of information requests (FOIs). Of the 395 local authorities that responded to the FOIs, the worst hit councils included Durham, which suffered approximately 1.3 million cyberattacks per month, and Gateshead, which recorded 65,000 per month.

The data revealed 29% of the councils experienced one or more 'cyber security incident' between 2013 and 2017. Also, 25 councils experienced one or more 'cyber security incidents' that resulted in the loss or breach of data. The report also found 297 authorities did not provide mandatory cyber security training, and 62 did not provide any training at all. Moreover, 56% of councils who experienced a loss or breach did not report it.

5 Council fined £120,000 for data breach

The council accidentally sent the personal information in a spreadsheet...

The Royal Borough of Kensington and Chelsea has been fined £120,000 after unlawfully publishing the details of people who owned empty properties in the borough.

The Information Commissioner's Office (ICO) issued the fine after the council sent the names and addresses of 943 people who owned vacant properties to three journalists.

The council accidentally sent the personal information in a spreadsheet in response to a freedom of information request following the Grenfell Tower fire. The ICO found that while the council did not deliberately contravene the Data Protection Act, it failed to have robust procedures in place to protect information.

6 Ex-council worker fined for illegally sharing personal information

She also sent a copy of a school admission record relating to another child.

Ex-council worker fined for illegally sharing personal information

The ICO reported that the education worker took a screenshot of a council spreadsheet concerning children and their eligibility for free school meals before sending it to the estranged parent of one of the pupils via Snapchat. The image included the names, addresses, dates of birth and National Insurance numbers of 37 pupils and their parents. She also sent a copy of a school admission record relating to another child.

The defendant was at the time employed as an apprentice in the schools admissions department of Southwark Council and had received training in data protection. She appeared before Westminster Magistrates' Court and admitted three offences of unlawfully obtaining and disclosing personal data, in breach of s55 of the Data Protection Act 1998.

7 WannaCry NHS cyberattack cost £92m

It also heard the 'ladder mates' designed to stop the ladder slipping were missing.

Last year's major cyberattack on the NHS cost £92m in service disruptions and specialist IT help, according to government estimates.

The WannaCry attack in May 2017 disrupted services across one third of hospital trusts and around 8% of GP practices leading to more than 19,000 cancelled appointments, according to the Department of Health and Social Care (DHSC's) report.

DHSC's report estimated that 1% of care was disrupted over a one week period, which translated to £19m of lost output. Additional resources used for IT specialists during the

attack cost an additional £0.5m but in the aftermath DHSC spent £72m on IT specialist work, the department calculated. DHSC stressed that the £92m figure was an estimate and said it was "not possible" to estimate with certainty the financial impact. The report also concluded that the NHS was "lucky" that the attack occurred on a Friday in summer – a relatively quiet period for the NHS.

In September, a poll of audit professionals across Europe found that cybersecurity was the biggest perceived organisational risk for 2019.

Fraud Risks

8 Council loses £200,000 in bank mandate fraud

"It was a substantial amount of money for the local authority to lose," a police spokesman said.

Melton Borough Council received an email it believed to be genuine making a "plausible" request to change bank details for a supplier in August 2013.

The following month the real company contacted the council over unpaid invoices, and the scam was uncovered.

After what police described as a "lengthy and complex," investigation, working with officers in Scotland and conducting inquiries in Ireland to trace the missing money, five men have been sentenced.

"The five defendants believed they were untouchable and by using various bank accounts to move the money, they thought they were covering their tracks. It was a substantial amount of money for the local authority to lose," a police spokesman said.

A spokesman for Melton Borough Council said it "followed our procedures" and carried out an audit, retraining and fraud awareness exercises with staff following the incident. The Council Leader said the authority "remains out of pocket" and is seeking to recover further funds through the Proceeds of Crime Act.



Prevention & protection advice

- Verify and corroborate all requests to change any supplier or payment details.
- Never alter a suppliers bank details on the basis of an email alone.
- Always contact the supplier directly, using contact details you know to be correct, to confirm that a request you have received is legitimate.

9 Express Motors: Bus owner and sons jailed after fraud

"someone at Express Motors discovered a loophole in the system" and a collection of lost cards was built up.

The owner of a bus firm and his three sons have been jailed for claiming tens of thousands of pounds for bus pass journeys which were never made.

Claims were made to the council for the fake journeys which paid Gwynedd-based Express Motors and then claimed the money back from the Welsh Government under the all-Wales concessionary travel scheme.

The figures were "staggering", the judge said, with lost cards being swiped more than 88,000 times, adding that "each swipe was quite literally money in the bank for Express Motors".

Judge Petts said: "someone at Express Motors discovered a loophole in the system" and a collection of lost cards was built up.

10 Council employee convicted of £1m pension fund fraud

"It was a substantial amount of money for the local authority to lose," a police spokesman said.

A former Westminster City Council employee has been convicted for defrauding the council pension fund of nearly £1m.

Ian Woodall, who was the council's interim head of pensions and investments for three years, has been found guilty of a charge of fraud by abuse of position and a second charge of concealing criminal property.

Mr Woodall was responsible for the day-to-day oversight of the council's pension fund, including liaison with the authority's bankers on payments to be made and investments received.

A discrepancy in the fund for 2010/11 and 2011/12 was identified by internal auditors who were not satisfied that four payments totalling just over £900,000 were legitimate. A full investigation was launched in 2013.

A Westminster council spokesperson said the investigation took a long time because the police had to trace the payments from the council's pension fund through a number of foreign bank accounts.

'This was a serious breach of the Council's trust from a senior employee, resulting in a detailed police investigation,' said the spokesman. 'This was a significant time ago. Since then we have changed our processes to make them even more robust and kept these under review. The fact we were able to pick this up and successfully prosecute is positive and we will now do all that we can to recoup this money through the courts.'

Prevention & protection advice

- Consider the risk of allowing temporary/interim staff access to all financial systems.
- Ensure that financial procedures are adhered to and investments are subject to appropriate scrutiny.
- Financial procedures apply equally to all staff employed by the Council regardless of their seniority and employment status.

11 Council under fire over contractor's £2m fraud

Shah was jailed for five years at a hearing at Harrow Crown Court on 31 July after pleading guilty to two counts of fraud by abuse of position.

A local council in London has come under fire after a report revealed how it failed to stop a contractor from stealing £2m from it.

Former council worker Trishul Shah diverted money from Barnet Council for fake property transactions between 2016 and 2017 while working on a joint outsourcing venture led by Capita.

Shah was jailed for five years at a hearing at Harrow Crown Court on 31 July after pleading guilty to two counts of fraud by abuse of position.

An independent council-commissioned review by consultants Grant Thornton said the fraud only came to light when Mr Shah's own bank sounded the alarm.

The review concluded that the council's and Capita's financial controls were "inadequate" and that the fraud could have likely been prevented had they been effective. Shah used his "intimate knowledge" of the council's financial processes to "perpetrate

and conceal" his fraud while working for Regional Enterprise (RE), a 10-year deal the council entered into with Capita in 2013 to provide public services.

RE, which is controlled by Capita, was set up to provide everything from planning and building control to trading standards, highways, cemetery and crematorium services, regeneration and environmental health.

Capita said it accepted the "need for improvements in financial and governance controls", but it believed the report presented a "limited and highly caveated review".

Prevention & protection advice

- Regularly review financial procedures to ensure they are fit for purpose.
- Consider any additional financial risks that may arise from outsourcing.

12 Men guilty of £700k NHS Powys fraud

The court was told the work carried out by the firm was so poor it cost £1.4m to fix.

An NHS manager has admitted defrauding a health board of £700,000 by using the names of U2 band members to award contracts to his own construction firm.

Mark Evill created fictional employees Paul Hewson and David Evans, the real names of Bono and The Edge, to make his company George Morgan Ltd look real.

He awarded himself contracts from Powys Teaching Health Board while fellow Robert Howells, 65, facilitated the fraud, Merthyr Crown Court heard.

The court was told the work carried out by the firm was so poor it cost £1.4m to fix.

Evill admitted fraud, three counts of transferring criminal property and one of perverting the course of justice, in what was described by prosecuting barrister as "blatant

and provocative dishonesty". He wrote emails and invoices to himself and falsified quotes from real firms to hide his fraud from auditors.

Howells admitted fraud after he was accused of endorsing George Morgan Ltd bids for work despite knowing Evill was secretly its sole director.

Bank records showed Howells was gifted a £10,000 car and £1,000 from the firm's account.

Prevention & protection advice

- Ensure procurement rules are followed.
- Raise awareness of the Council's policies on accepting gifts and its Bribery and Corruption policy.

13 'Disabled' magistrate in £26k benefit fraud



Judge David Aubrey, QC, described her as "a fraudster" and said her actions had been "a sham" and "deceitful throughout".

A "deceitful" former magistrate who lied about her mobility to cheat the benefits system out of more than £26k has been jailed for 9 months.

The former magistrate was brought into court in a wheelchair, but footage was played to the jury showing her walking across the court precincts. Her offending was carried out while she served at Stockport Magistrates' Court between 2011 and 2016.

The court heard she had stated in benefits application forms that she could barely walk and needed round-the-clock care following a road traffic accident in 2007. However, CCTV surveillance footage showed her walking around at the Trafford Centre shopping mall, faster than other shoppers, and also working on her driveway.

The jury also heard evidence from former cleaning customers for her business, Abacus, including a head teacher who had been to Howell's wedding and saw her dancing.

Judge David Aubrey, QC, described her as "a fraudster" and said her actions had been "a sham" and "deceitful throughout".

The judge told her: "You were administering the law, presiding over cases and sitting in judgement on those before you. During much of that time while you were supposedly administering the law you were breaking the law, repeatedly committing criminal acts by defrauding the state. You were stealing from the state. Between February 2013 and October 2016 you were paid higher rate Disability Living Allowance and received £26,539, money that you were not entitled to".

End note

- This final example again shows that that an individual's standing in the community does not preclude them from committing fraud.
- All these frauds and the insurance fraud highlighted later have been brought before the Courts in the last 6 months and demonstrates that fraud remains a very real threat to public finances. We all have a duty to remain vigilant and to report any concerns as soon as possible. The Council's 'Reporting a Concern' policy provides advice and guidance on how to do this.

Trading Standards Risks

14 Fake cosmetics 'dangerous' warn council chiefs

Around 275 fake make up products, which had a street value of £2,258, have also been seized from a property in Grimsby.

Hundreds of thousands of pounds worth of dangerous counterfeit cosmetics have been uncovered across the country by trading standards officers, local government leaders have warned.

In Devon, Somerset and Torbay, for example, trading standards services have seized products containing chemicals such as highly toxic mercury and illegal levels of the skin whitening agent hydroquinone.

In Cheshire, a tanning salon owner has been prosecuted for selling more than £100,000 of fake designer goods, which included make up brands and perfume.

Around 275 fake make up products, which had a street value of £2,258, have also been seized from a property in Grimsby.

The chair of the Local Government Association's Safer and Stronger Communities Board warns that fake cosmetics are 'dangerous' as they can 'contain toxic chemicals and dangerously high levels of lead which can be detrimental for people's health. People should always do their research and take a pragmatic approach when they are buying make up and cosmetics. Check the reviews of online sellers, and bear in mind that if something is really cheap, it is likely to be fake and could potentially be harmful'.

Insurance Risks

15 Cyclist sentenced after £175,000 pothole injury fraud

The value of the loss being claimed for was £175,000 due to loss of earnings and his injuries.

The fraudster claimed to have been on his bike when hit a pothole and wrongly tried to blame Cardiff Council. He was sentenced on 6 June 2018 after submitting a false claim where he injured himself after crashing into a pothole. He was sentenced to three years and six months for fraud by false representation.

The City of London Police's Insurance Fraud Enforcement Department (IFED) took on the case in March 2017 after Cardiff Council's insurance company referred it to an offence that occurred between 16 December 2012 and 14 March 2017.

The defendant claimed he was on his bicycle when the front wheel hit a pothole in the pavement causing him to fall from his bicycle and suffer a broken ankle. In October 2013 he provided pictures of the state of the road, but under s58 of the Highways Act (1980), the council rejected the claim as it was allowed to defend cases, as long as there had been a

reasonable schedule of maintenance and upkeep in place.

In April the next year, the defendant's solicitors submitted a claim form which showed his alleged earnings, a copy of his medical report plus images of the defect that had been alleged to be the cause of the fall. The value of the loss being claimed for was £175,000 due to loss of earnings and his injuries.

Cardiff Council's solicitors managed to obtain the 999 call made by a passer-by about the defendant's injury. It was determined that the location of his injury was approximately 950 metres away from the location given by the defendant. The caller also stated that the floor was slippery where he was riding his bike but did not mention a paving defect.

IFED determined that while the defendant had genuinely fallen from his bike, it had not happened where he claimed and it had been as a result of the slippery pavement and not a pothole. As a result no money was paid out.

Court Circular

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.

OCCUPIER'S LIABILITY

A COUNCIL'S OPERATION OF A REACTIVE SYSTEM WHEREBY CAR PARKS WOULD BE GRITTED UPON RECEIVING A REPORT FROM A MEMBER OF THE PUBLIC REGARDING A DANGEROUS AREA WAS APPROPRIATE

Ivor Cook v Swansea City Council 19.12.2017, Court of Appeal

The claimant, C, had fallen on ice in a car park owned by the defendant, D. D admitted that in bad weather, it did not routinely grit unmanned car parks. Instead, it operated a reactive system, whereby it would grit an area if a member of the public reported it as unsafe.

A claim was brought for damages in negligence and/or breach of duty under the Occupiers' Liability Act 1957 s.2(2).

At first instance, the judge found this appropriate and rejected C's argument that the accident would have been prevented if there had been a system in place whereby local authority employees who visited the unmanned car park during the day to collect money from the ticket machines checked for and reported icy conditions. In addition, the judge found there was no evidential burden on the local authority to show that the accident would have happened regardless of whether the area was routinely gritted.

The Court of Appeal found there was no breach of duty by D. Section 2 (2) required D to take reasonable care to ensure visitors to the car park would be safe. D had presented a strong argument as to why it would be unreasonable in all circumstances to impose a duty of care that would effectively require it to grit its unmanned car parks whenever icy conditions were reported. A balancing exercise must be carried out when considering what amounted to "such care as in all the circumstances of the case is reasonable" in s.2. That exercise involved a calculation of the likelihood that someone might be hurt, the gravity of any injury that might happen, the social value of the activity giving rise to the risk, and the cost of taking action to prevent it.

The court followed *Tomlinson v Congleton BC* [2003] UKHL 47 where the judge found that "the danger and risk of injury from diving in the lake where it was shallow were obvious", therefore there was no duty to protect against it.

The risk of ice in bitterly cold weather was obvious, and the public could be reasonably expected to take care in such conditions. Gritting would have to be by hand and would involve significant use of staff and material resources. That would constitute a disproportionate and costly reaction to the risk and would prevent D from concentrating gritting resources on parts of the community which needed more attention.

The appeal was dismissed.

COMMENT

The two main points to take from this decision are a) obvious dangers do not give rise to a duty to protect the public and b) the courts are alive to the commercial realities of undertaking protective measures and will perform a balancing exercise against the risk of harm and the reasonableness of protecting against it.

NEGLIGENCE

COUNCIL ORDERED TO PAY DAMAGES TO A CHILD INJURED AT A LASER GAME ATTRACTION

CC v Leeds City Council, 04.06.2018, High Court

The defendant, Leeds City Council, D, appealed against damages awarded to the claimant, C, a 10-year-old boy, who was injured at a games centre where laser fights took place. Whilst participating in a laser fight game, C tripped on a ridge between 'pods' and smashed a toy gun against his teeth, which caused serious injuries to his mouth.

The game venue's structure was divided into pods to separate changes in level. Lighting was dim.

In the High Court, Mr Justice Turner upheld the decision at first instance. He found the interior of the game was so dark that it would take children a minute or so before their eyes became accustomed to the contrast, and that the council had issued no warning about the 'tripping points' or made them more visible by attaching fluorescent strips.

A health and safety script was read to children prior to the game. However, it contained no information about the tripping points. This was despite the fact that since 2014, several injuries following tripping accidents had occurred.

COMMENT

Risk assessments need to be continually updated to ensure lessons learned from previous incidents are applied and the risks identified mitigated. In addition, health and safety briefs to patrons need to encompass all known risks. It is worth noting that ten days after C's accident, another child tripped and required stitches to his lip. To prevent a claim in negligence, known risks must be eliminated or mitigated as far as possible.