

Risk and resilience

Tools for officers and members with governance and scrutiny responsibilities to help them tackle major change

inputs practical advice **risk management**
social value design **maximise**
value confidence opportunity **support** soci
continuous improvement
trust economic development **balance** research
Risk and resilience
Tools for officers and members with
governance and scrutiny responsibilities
to help them tackle major change
ing evaluation infrastructure **focus** decisi
capitalise social benefit user experience
nise develop policy planning evaluation **maxi**
monitoring productive outcomes

INTRODUCTION

This is the second of three briefings being published over 2015/16 to help scrutiny practitioners to understand and tackle major change.

In June 2015 we published “The change game”, the culmination of a year of research and targeted support to nine areas in England and Wales. In January 2016, we published the first of this year’s briefings, on return on investment. Both set out to explore, and provide practical assistance on, some of the key opportunities for overview and scrutiny around transformation and major change.

This guide complements those publications by looking in more detail at risk. The focus on policy development around major change means that we will not look at the relationship between scrutiny and audit in the context of risk, however, the council’s audit function will still be a key partner for scrutiny. Efforts to integrate an understanding and engagement with risk and risk management into scrutiny’s work will naturally require meaningful co-ordination with those audit functions.

WHO IS THIS DOCUMENT FOR?

This document is intended for:

- Chairs of scrutiny committees. They can use it to better understand how to integrate an awareness of risk into work programmes;
- Members of scrutiny committees. They can use it to understand how they can weave probing questions about risk into the discussion of important community issues;
- Officers supporting scrutiny committees. They can use it to support their councillors to carry out the above tasks;
- Cabinet members. They can use it to understand how scrutiny can help to develop and defend a positive risk culture which highlights collective political accountability for difficult decisions;
- Officers in service departments. They can use it to understand how to integrate scrutiny – and scrutiny members’ views on risk – into corporate risk management systems.

QUICK WINS

- Check that councillors understand what risk is, what risk aversion is (and isn’t) and what mutually-linked role Cabinet and scrutiny want to take on risk-related issues;
- Check that a common understanding of risk exists across the authority, that there are shared and understood agreements about what the council’s risk tolerance and appetite are, and that there is a mature and positive risk culture overall;
- Check that those involved at senior level understand the political dimension to the assessment, identification and mitigation of risk and councillors’ political responsibility to the public for taking action;
- Check that the council has a proper risk management plan in place;
- Ensure that there is a clear framework for accountability around all issues that have an impact on local people.

- Build an understanding of risk and risk management amongst scrutiny councillors;
- Integrate risk, performance and finance information within scrutiny's discussion of substantive issues at committee, and through task and finish groups;
- Agree systems that involve scrutiny members directly in corporate risk issues – either “by exception” on individual risks, system-wide (by looking at risk culture and tolerance, and risk management systems) or some of both;
- Specifically use scrutiny to secure a different perspective on risk than might be held by officers, and to develop and sustain a member-led risk culture that is not exclusively the domain of Cabinet.
- Consider, and act on, risk issues that present themselves in respect of major change programmes.

WHAT IS RISK?

Risk is central to decision-making. Risk itself is the chance of a particular circumstance or set of circumstances occurring. Understanding it, and acting on that understanding, significantly reduces the chance of failure. Organisations that do not understand risk are more likely to suffer at the hands of unexpected incidents which have not been planned for. Organisations that do understand risk are more likely to be resilient, able to weather problems which might otherwise cause real issues and able to deliver against their objectives in the short, medium and long-term.

At its heart the management of risk is about identifying risks, assessing the impact they will have if they come to pass, the likelihood of that happening and making plans to mitigate or “treat” those risks. These key points are often set out in “risk registers”, key management documents which, alongside performance data and financial information, provide senior officers and members with a snapshot view of a given service or issue.

Risk management is not a dry academic exercise. It should not be something done on paper by less experienced officers, resulting in a register or table which is appended to a document and otherwise not referred to or used for planning. An accurate understanding of risk is the only way that local government can successfully innovate and bring about changes to the way it works. It is also the only way that councils can avoid the chance of serious failure.

Overview: areas where risk is particularly important and how scrutiny fits in

- Tough financial decision-making. There has to be some way to manage competing demands for resource in different areas. Much of this will come down to political priorities, but risk management has a big role to play. Scrutiny can help to open out a proper understanding of risk – short and long term factors, an organisation's tolerance and appetite for risk and identifying the challenges that are seen as presenting most risk and developing strategies to help to mitigate them;
- Politically contentious decision-making. Risk is influenced by the values of elected members. A council's political leadership – as well as making their mark on the policies that a council pursues – will also have a significant impact on the organisation's appetite for risk. Political risk

and organisational risk may, for example, work against each other. Scrutiny can help officers to unpick political issues, using councillors' unique credibility, legitimacy and viewpoint as elected politicians.

- Issues where multiple partners are involved and/or where lines of accountability may be unclear. Muddy internal and external relationships can make it unclear where responsibility lies. A lack of clarity on this can lead to important issues falling between the gaps. How do partners work together to identify commonly-owned risks, and how do they develop coherent strategies to mitigate them together? Scrutiny can help to “map” local relationships, looking at common issues from the point of view of residents to cut through silo-based working. We talk more about “ownership” of risk below;
- Setting up new arrangements for the delivery of services. Many councils are establishing new structural arrangements for service delivery such as joint commissioning frameworks, Teckal companies, confederations and so on. Some councils are taking the opportunity to use devolution deals to accelerate this process. Some councils are even pursuing mergers. These approaches all involve risk. “Status quo” approaches – keeping structures the same while the external context changes – also involve risk. Scrutiny can help to develop a more nuanced understanding amongst all members of where the risks lie in structural change, and ensure that the organisation focuses more on outcomes and less on the mechanics of those structures.

Risk of what?

It is all very well to talk about risk, but we must also be prepared to say what that risk might lead to. What we are really talking about is possibility of failure.

Failure may take many forms. It can be divided into three components. It can be presented as sides of a single triangle, emphasising the fact that they are interlinking (the interdependencies inherent in risk management being an element we will return to later):

- Financial failure: for local authorities this is moot, as councils do not go “bankrupt” in the traditional sense. However, repeated deficit, depletion of reserves and a failure to hit performance targets can be a factor, as can short-term closures or withdrawals of services;
- Operational failure: inability to hit expected performance standards. Local people expect a certain standard of service – councils may find themselves unable to meet these needs;
- Strategic failure: a misalignment of capacity and demand. For example, the provision of adult social care is often seen as an area where, nationally, the risk of strategic provider failure is imminent.

For local authorities and other public bodies, failure can have a further dimension – the impact of that failure on the lives of local people and on local communities. While much of the literature on risk and risk management focuses on the internal impact of risk on the organisation, there are three externally-facing aspects of failure that apply to organisations such as local authorities. These three overlap with the three highlighted above:

- Political failure: an inability of the authority's political leadership to make decisions and of councillors overall to represent local people's needs and interests. This will also manifest in a lack of ability of non-executive councillors to hold decision-makers to account. This links to “strategic failure” above;
- Community failure: a fracturing of the local community, an internal failure which has far reaching and direct consequences for local people. The Mid-Staffordshire and Rotherham scandals are examples of this having happened as a result of a connected internal failure. This links to “operational failure” above;

- Provider failure: an inability of a commissioning body (like a local council) and a provider to work together to deliver services, or outright provider failure (for example, where a provider goes bankrupt or wants to end a contract). This links to all three forms of failure above, and is discussed in more detail on the section on major change below.

Not all poor performance is failure. Crises can hit which can cause problems; the marker of an effective risk management plan is its ability to predict such crises, as far as possible, and have plans in place for dealing with them.

These failures will often not have a single cause. Failure is complex.

Case study: Southern Railway, 2016

Southern Railway (operated by franchise-holder GTR) introduced a new timetable in summer 2016 which cut the number of train services by more than 300 per day – significantly cutting the number of peak-time services. This move was hugely controversial and resulted in calls for GTR to lose their franchise. However, some of the causes of the problems lay beyond Southern’s control. This operational failure was caused by the convergence of risks from a range of sources:

- An ongoing industrial dispute between Southern and rail unions, which (it has been claimed) is the cause for a significant rise in the number of train staff taking time off sick, affecting duty rosters;
- GTR inheriting 60 fewer drivers than expected from the previous operators of the Thameslink and Great Northern parts of its franchise;
- The need to release drivers from certain routes to train on new rolling stock, as well as to train newly-recruited drivers;
- The aftermath of infrastructure and signalling works at London Bridge, resulting in constrained capacity on some routes, affecting resilience;
- The impact of “reactionary delays” on the south London rail infrastructure – that infrastructure having very little resilience and meaning that any delay has significant and long-lasting operational impacts.

When failure is complex, mitigation (or “treatment”) is complex too. Councils – like any public body or other complex system – are complicated organisations. Taking action in one place may produce unexpected results elsewhere. An effective risk management plan (see below) will recognise and act on these interdependencies and build them in to plans for mitigation.

A more detailed treatment of failure – its causes, consequences, and mitigations – can be found in the Institute for Government’s “Failing well” (2016) - http://www.instituteforgovernment.org.uk/sites/default/files/publications/IFGJ4331_Failing-Well_25.07.16_WEBc.pdf

First steps

There are two principal challenges with which scrutiny must get to grips, if it is to use risk information effectively in its work, and hold to account the way the councils deal with risk more generally.

The first relates to culture. Having a positive risk culture underpins everything. Without it, risk systems are just bureaucracy, created to stop an approach to risk which is slapdash and subjective. Scrutiny councillors have a role both in challenging executive-side councillors and officers to promote such a

positive risk culture, and a personal role in championing that culture themselves, through the scrutiny function.

The second is about risk management. Scrutiny councillors must understand the principles behind risk management, its main components, how it should work and the extent to which their own council lives up to those principles.

It is only by tackling and overcoming these two challenges that scrutiny can understand how to use risk information day-to-day – the subject of the section after this one.

1. Understanding risk and risk aversion: the importance of a positive risk culture

It is often said that organisations like councils are “risk averse” - that they shy away from decisions which might be considered risky. Such organisations shy away from taking action and preserve the status quo because to do so is seen as less risky.

In fact, it is more accurate to say that they are “risk blind” because risk aversion implies an accurate understanding of where risk lies. Risk blindness is a serious problem because it suggests that an organisation does not truly understand what the impacts of its decisions will be on its own services and on the wider community. Because there are risks associated with inaction as much as there are relating to action, an organisation which thinks that it is being cautious or prudent, but which is actually risk blind, may actually be taking far more risks than it is aware of .

Case studies: where staying put is the riskier option

All of these large organisations lost a market-leading position when they failed to adapt to that market changing beyond all recognition (in these examples, because of the rapid development of new technology).

Eastman Kodak (film and cameras: went bankrupt, having failed to take advantage of growth in digital photography)

Nokia (mobile phones: failed to take advantage of explosion in use of smartphones. Disastrous financial results and a collapse in market share led to it selling off its mobile phone division in 2014)

Amstrad (home computers: failed to recognise that the future lay in IBM-compatible computers rather than their own proprietary system. Set-top box business since taken over by Sky)

Yahoo! (web services: from a commanding position in the early days of the web, failed to keep up with competitors which were better at delivering its core products than it was and has since been taken over by Verizon, following a takeover which valued it at a fraction of its former cost).

And an example of a company recognising that its traditional business model is moribund:

IBM (computers: has now largely sold off its engineering and “hard” computing divisions to focus on business software, data analytics and management consulting).

Public sector bodies – with their statutory obligations and their direct connection to local people through elections – could never pull off the kind of dramatic “pivot” that IBM did but that makes their approach to risk management and mitigation even more important. Part of successful risk management is about recognising that an approach that may have worked well up until now is (because of a change in local circumstances) increasingly risky and untenable.

Part of the solution is to promote a positive “risk culture”. Councillors must play a central role in this. When councillors ask about risk, and when they make clear that it is important, they send a strong and positive message to officers that they should take the issue seriously too. A sustained change to risk culture has to start at the top. Risk management has to be “owned” by Cabinet and senior officers. A good sign that risk is not taken seriously in a council is if Cabinet and the council’s senior management board rarely or never discuss the issue in detail, either as a standalone item or integrated into their consideration of other substantive topics.

The National Audit Office (NAO) have noted this point in the context of Government departments. They said:

“One recent internal audit report observed that ‘risk management activities are currently undertaken for compliance purposes only’. An emphasis on compliance is acceptable if it encourages the right kind of behaviour but compliance alone may be detrimental to the way that risk management is perceived within the business, as opposed to a culture of pro-active risk management.”

The section above highlighted some local issues where risk is particularly important. Effectively tackling risk in those areas boils down to having a mature risk culture.



IRM risk culture diagram

Source: <https://www.theirm.org/knowledge-and-resources/thought-leadership/risk-culture.aspx>

The Institute of Risk Management has established a “risk culture framework”: something around which to act to analyse and act on risk in any organisation. It has a number of elements, ranging from the personal to the organisational in a series of concentric circles:

- Personal predisposition to risk: whether people are spontaneous and challenge convention, or whether they tend towards more caution. The balance of different types of people – and which people sit at senior level – is a critical factor in determining risk culture;
- Personal ethics: some people who are predisposed towards compliance, rather than care, may be less likely to challenge or lack the ability to understand unsatisfactory approaches to risk;
- Behaviours: the way that the above two “personal” characteristics play out as people work together;
- Organisational culture: particularly whether there is a sense of “common purpose” within the organisation, and whether people are focused on tasks, goals and performance – both critical in managing and mitigating risk.

Part of mature risk culture is a full integration of risk into management processes – meaning that there may no longer be a separate thing the organisation does called “risk management”. Consideration of risk is seamless and implicit. For the purposes of this paper, and for the sake of

simplicity, we have followed a standard “risk management” approach – but the nature of the evolution of risk culture means that the adoption and use of such approaches is not the goal or endpoint here. (see http://www.cimaglobal.com/Documents/Thought_leadership_docs/R267%20Manage%20risks.pdf)

Risk culture can be changed. Part of this is about understanding failure better. It is important to bear in mind that failure is not always bad and that no organisation can ever eliminate the risk of failure entirely. But for public sector bodies delivering a range of “life and limb” services such as social care and children’s services, it is understandable that we might consider our tolerance for risk to be low, if the failure it could lead to is the loss of life.

This suggests that tolerance for risk might be different, depending on the issue under discussion. For example, our tolerance for risk in children’s services may be very different for our tolerance for risk in verge-cutting. In truth, an acceptance that some risks are more severe than others because of their possible impacts is central to the process of risk management. But understanding that risk, and failure, are not uniform is part of the process of developing a mature risk culture.

The political dimension: There is a lot of literature produced by a wide range of organisations that engages with risk-related issues – this report draws on a lot of it. However, far less well reflected is the political dimension unique to local authorities.

The way that the political leadership of councils assess, identify, estimate, evaluate and report risk is tightly bound up with politics. Especially for big decisions, politics is a huge factor. It defines risk appetite; it may provoke decision-makers to take risks they otherwise would not, for political reasons.

There is an argument that party politics effectively works against evidence-based policy-making. Effective risk management sits at the heart of evidence-based policy-making, and politics, goes this argument, is subjective and arbitrary. Therefore, we must work to excise it from the way that we develop and make decisions.

This is a dangerous proposition. Politicians are not technocrats; they are elected to reflect a different viewpoint and perspective to those held by officers. They are elected to provide political leadership in making difficult decisions – even if that involves taking a different approach to risk to the one that officers might make. The political dimension is a critical element of the “risk culture” that we highlighted earlier. It should be acknowledged and harnessed to ensure that risk decisions are closely connected to the interests and aspirations of local people, as channelled through their elected representatives.

But political priorities should not be used to railroad risk decisions, or to make decisions that run counter to a mature assessment of risk which incorporates an understanding of local politics and local democracy. A nuanced and honest approach is needed. Many councils have consciously changed their political approach to risk more recently, seeking to move from a risk-avoidance model to one that selectively tolerates a degree of risk in order to secure positive outcomes for local people. The question is whether this shift in approach is something in which all members have a stake.

Case study: political risk. Brighton & Hove and the traveller community; Boston and migrant seasonal workers

Brighton

The provision of local services to the traveller community is politically risky. Travellers are generally marginalised and, because of a lack of a voice in the political system, their interests can be minimised.

Brighton’s scrutiny of this issue attempted to engage in this issue and, by addressing political and organisational risks associated with the relationship between travellers and the settled community,

identify solutions to reduce community tensions and also economic costs.

<http://www.brighton-hove.gov.uk/content/council-and-democracy/councillors-and-committees/traveller-strategy-scrutiny-review-panel>

Boston

Rural Lincolnshire has a substantial seasonal agricultural workforce. In recent years, this workforce has been increasingly made up of migrant workers. The presence of large numbers of seasonal migrants in this area has caused community tensions; Boston undertook a review to better understand the situation and understand how its effects could be mitigated.

<http://www.bostontarget.co.uk/public-say-issues-surrounding-migration-boston/story-17166384-detail/story.html>

These are both examples of scrutiny being used as a mechanism to minimise political risk. Seeking to look at an issue which is politically contentious through scrutiny encourages dialogue and cross-party, consensus thinking.

We present some ideas that scrutiny can use to shift risk culture below.

Scrutiny “quick wins” on risk culture: key questions to ask

- What is our risk culture? How do our people contribute to this culture?
- How does local politics have an effect on risk culture, and risk tolerance?
- How does worry about potential damage to the council’s reputation in the local community affect our approach to risk?
- Scrutiny is led by elected members; how can it use this, positively, to politically influence risk decisions?
- How do we recognise the risks that arise in relation to “status quo” options – how do we analyse those risks in comparison to measures to change or do things differently?
- How are we moving from a “compliance” based approach to risk, to one that understands risk as part of the wider improvement process?
- How do we understand our tolerance to risk and do we recognise and agree that it will be different for different areas of service?

2. Understanding and applying the principles of risk management

Risk management is about more than just drawing together a risk register. Without basic principles to underpin them and a common understanding of their purpose and objective, risk registers become meaningless – a selection of subjective, officer judgments which reflect only partial understanding of a problem, presented divorced from any context. That context can only be provided by a clear, understandable and robust approach to risk management in the round.

The Financial Reporting Council produced guidance in 2014 (<https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/Guidance-on-Risk-Management,-Internal-Control-and-.pdf>) to assist organisations to understand risk management. These make it clear that ultimate responsibility for this issue lies with Cabinet. In the local government context this is doubly the case; Cabinet holds political responsibility for leadership on this issue as part of its stewardship of the council on behalf of the electorate.

Given this political dynamic it is clear that scrutiny shares this responsibility. Scrutiny must challenge poor practice and champion good practice on risk and risk management. Cabinet and scrutiny can therefore be seen as having a shared responsibility for the following:

- Designing and championing appropriate risk management systems;
- Determining the council's appetite and tolerance for risk;
- Ensuring that this appetite is understood and shared by the rest of the organisation – that there is a sense of collective ownership of that culture;
- Direct Cabinet ownership of certain key strategic risks, and ownership of the plans for mitigate of those risks; scrutiny providing political oversight for this process;
- Being satisfied that internal risk management processes are working effectively (a particular role and responsibility for scrutiny).

(adapted from FRC: “Guidance on risk management, internal control and related financial and business reporting”)

So, what does this mean in practice? While there is no archetypal best approach for the development of risk management policies in councils, the following might provide a rough guide.

Prerequisites

- Cabinet and Council have an **existing understanding of present risks**, relating to council services, services provided by partners and wider issues affecting the locality;
- Cabinet and Council have an **existing, and flexible, policy on risk appetite**, risk tolerance, which promotes and reflects a risk culture shared by the rest of the organisation (and by other partners in the locality). Effort may also have gone into engaging with the public to understand their own tolerance for risk;

Process

- Cabinet and Council **set corporate priorities, short and long term objectives, based on their understanding of existing risks**. These priorities will, in part, be a form of mitigation for those risks;
- Plans are put in place to **deliver against these priorities**;
- Part of these plans form a **risk management strategy and plan**; there will be a single risk management plan for the whole area/authority and individual ones that go into more detail on services/issues. They will cover the **identification, assessment, evaluation, mitigation and ongoing monitoring of risks**.

When reviewing risk and risk management, scrutiny bodies should consider whether the principles accounted for above are reflected in the way that their councils do things. Gaps and shortcomings can therefore be quickly and easily identified, and risk management systems strengthened.

Case study: flood risk management

Flood risk is a critical element of emergency planning. Since 2007 (the point which marks the genesis of the current approach to risk management in flood planning) there have been a number of high-profile instances of flooding causing widespread property damage and damage to public infrastructure, not to mention the devastating impact of such events on people's lives.

Following the Pitt Review, which looked at flood risk management in the light of the 2007 Gloucestershire emergency, scrutiny was given a formal role in flood risk management. The Local Democracy, Economic Development and Construction Act 2009 gave local scrutiny functions an oversight role.

Scrutiny of flood risk planning has been identified as having a number of key strengths:

- Highlighting the multi-agency approach to planning and responding to flooding emergencies;
- Learning from past experiences (through reacting to recent flooding – sometimes, as in Gloucestershire, as a part of the formal multi-agency debriefing process);
- Taking a role in policy development (bringing to bear democratic accountability on the way that flood management plans are put together – this in particular will involve discussions of risk appetite and risk management planning);
- Community reassurance (by having these discussions in public and making recommendations which reflect local concerns and needs).

(adapted in part from “Scrutiny of flooding toolkit”, LGA/LGiU, 2010) - https://khub.net/c/document_library/get_file?uuid=b9bbb434-4c37-45a5-9022-a6be94598719&groupId=6084608

Scrutiny “quick wins” on risk management: key questions to ask

- What is the common understanding across the council, and across the area, about what risk is?
- How does Cabinet “own” strategic responsibility for risk?
- How are responsibility and accountability for risk management defined, co-ordinated and documented throughout the organisation and who takes ultimate responsibility for this?
- How is a consideration of risk weaved in to the way that priorities are identified and objectives developed, for the council, its partners and the wider area?
- What corporate systems are in place for the assessment, identification and evaluation of risks?
- Are the skills in place throughout the organisation to act on our risk management plans?

Managing risk and transformation through good scrutiny: taking a role in risk assessment, identification, mitigation and review

Risk management: overview

Risk management comes into its own when councils seek to undertake major change. Transformation processes are often wide-ranging and will have big impacts. Risk needs to be taken seriously and having a robust risk management process as an integrated part of a change project or programme is fundamental. What is less usual is that councillors play an active role in this process.

If councillors are familiar with risk-related documentation it is most likely that it is in the form of risk registers. Risk registers may occasionally be considered at scrutiny committees, often as appendices to long council strategies. Even when considered in their own right they represent only a small part of the risk assessment process. Looking at risk registers out of context presents a skewed and simplistic view of what risks are and how they are being managed. If risk assessment is a compliance-based issue, looking at a risk register on its own can be even worse – it can provide reassurance that corporate systems exist to manage risk, when in fact they do not.

The NAO suggests that the risk register should be treated as part of an integrated “suite” of performance, finance and risk information. For Cabinet and scrutiny’s purposes, the key information required is that which sets out a summary of the issues, and focuses on the low probability and high impact risks which could take the organisation by surprise. This “by exception” approach is something on which we comment in more detail below.

Risk management is comprised of a number of different elements, most of which should be presented or at least reflected/alluded to in a formal risk register.

This work all needs to track back to a substantive “issue”, a matter on which the council, with its partners and the local community, is seeking to take action to address. This might be the provision of 16-18 education and training for young people, the provision of respite care and support to residents with caring responsibilities, it might be the promotion and improvement of the council’s reuse and recycling services. The way that the issue is framed – how it is understood by those officers, members, partners and the public – is key to how risks are identified and then addressed. Care must be taken to ensure that issues are assessed to reflect the experience and interests of the public, not just the internal systems and processes that the council has in place.

A failure to frame issues, and risk, in this way leads to the possibility that some risks may not be recognised, or may be minimised, by the risk process, as it emphasises the impact a change may have on the council rather than the way it affects people and communities.

To give an example of what this might mean in practice, consider the difference between a consideration of “the council’s youth service” and “services provided to local young people”. The first is council-centric; the second looks at the issue from the point of view of the resident.

The key steps necessary in undertaking an effective risk assessment and mitigation exercise are therefore:

- An assessment of the issue under discussion and the service the council and its partners provide in respect of that issue;
- An assessment of the resource (and other inputs) the council and its partners will put in place to manage that issue or deliver that service;
- An assessment of how a change in any aspect of these two factors might affect the delivery of local objectives;
- The identification of the risks that might give rise to these changes.;
- The description and estimation of the risks;
- The evaluation of the risks;
- Reporting, treatment (mitigation) and monitoring of risk on an ongoing basis.

Key issues for scrutiny

- Do we have a robust and consistent risk management process in place across the council?
- How does that process look at risk from the point of view of local people, their needs and experiences, rather than that of professionals within the authority?
- How do we use that process when confronted with the prospect of major change?
- Is this process shared with partners?
- Who else is involved in that process? What role do the public play?

- What is the role of executive-side councillors in this process? Referring back to “risk culture”, how are councillors’ political priorities and objectives reflected in the way that the risk management process is designed? Is this different for major change programmes?
- How does Cabinet manage combinations of risks, or risks with a low probability but, if they did occur, a significant impact?
- What systems exist to link risk management to audit and other internal control systems, and how collectively do they ensure probity in how the council’s finances are governed and managed?
- What role might scrutiny play in this process overall?

Options for scrutiny to address

- Reaching agreement about the best place, or places, for scrutiny to have an input – both generally, but also in respect of time-limited major change projects;
- Identifying how scrutiny can extract information from each stage in the process to inform its wider work – particularly in combination with finance and risk information;
- Helping to identify and frame issues so that discussions about risk happen in the context of services and issues as they are experienced by local people, rather than as they are delivered by the council.

Assessing the issue

In order to understand what risks may occur it’s important to first understand the issue that relates to that risk.

Above, we have outlined three principal areas where decision-makers need to secure a baseline of understanding before they can make accurate risk judgments. We now explain each of these in more detail.

1. The issue and the services provided by the council and its partners to address that issue. This is about the existence of detailed and accurate background knowledge relating to this issue. Officers will have some of this detailed knowledge – but service users and councillors will too. As such, an approach which sees the views and experiences of a range of people fed in will avoid an assessment reflecting the “officer view” of the issue in question.
2. The resource the council has to manage that issue. This may be clear, if the council’s objectives and priorities are clear. It may, on the other hand, not be. Resource could be shared between different budget holders or different organisations – they may work poorly together. This in itself identifies potential risks. Furthermore, understanding the resource “envelope” within which risks and their solutions can be tackled helps to understand what those solutions might be;
3. How a change in the nature of the issue or in the resource available to tackle it might impact upon the delivery of the council’s objectives. So, if the context for an issue shifts – because of demographic change or a change in government policy – that will naturally require a reappraisal of the associated risk. If such a change is more likely, and that change would have a negative impact, that will have an implication for the council. For example, the Housing and Planning Act presents challenges for councils and social housing providers on the continued provision of housing for people who need it; this change would need to be reflected as an increased risk, when the council comes to consider its policy response to housing pressures more generally.

It’s important that this is about assessing an issue – not an existing or predetermined risk. Jumping ahead to identify risks at this stage – missing out the broad overview of an issue – means that emerging risks can be missed.

Assessment is not a “one time only” thing. As time passes, circumstances will change that will alter the nature of the issue, and change the level and nature of the risks involved. Assessment is therefore a continuous process, whereby officers will use their professional knowledge to reflect and revise their approach to risk.

Unless assessment is undertaken continuously, it will swiftly become out of date, and the risks that have previously been identified, along with any mitigation measures, may be inappropriate or counterproductive. The whole of the rest of the risk identification and evaluation process – set out below – relies on assessment being robust and timely.

Key issues for scrutiny

- What information goes into assessments of local issues?
- How can insights from the local community – local councillors, frontline services and local people themselves – be fed in and used continually, as part of a conversation about local services?
- Are broad assessments of local issues and services carried out before risks are identified, \ or after?
- How is this assessment process linked to wider discussions within the authority about social return on investment?

Options for scrutiny to address

- Feeding the outcomes of scrutiny reviews (and committee items) into the risk management process;
- Exercising oversight over the way that Cabinet keeps a “watching brief” over the services the council provides;
- Assisting in the assessment process by reflecting the voice and concerns of the public more effectively, thereby making risks easier to identify.

Describing, estimating, evaluating risk

Describing - this requires that people with an intimate knowledge of the services and issues concerned take the lead. It needs a methodical approach whereby all significant activities within the organisation have been identified and all the risks flowing from those activities are defined.

There is no single process for doing this. A number of approaches exist, and include:

- Brainstorming;
- Questionnaires;
- Business studies, which look at each business process and describe both the internal processes and external factors which can influence those processes;
- Industry benchmarking;
- Scenario analysis;
- Risk assessment workshops;
- Incident investigation;
- Auditing and inspection;
- SWOT (strengths, weaknesses, opportunities, threats) analyses, and similar exercises;

- Data from finance and performance monitoring reports;
- Complaints data and other user intelligence (see below).

(amended from list in “A Risk Management Standard”, IRM - https://www.theirm.org/media/886059/ARMS_2002_IRM.pdf)

You will note that the kinds of sources of evidence are likely to be similar to the sources of evidence used for the assessment of issues described in the section above. These two stages will naturally link into each other.

Insight from people with lived experience and people who use services is particularly important. In the local government context this includes listening to, and engaging with, residents. Conversations with local people are vital in ensuring that risk is understood in the context of the lives lived by ordinary people. A council thinking about its own corporate systems and structures may consider a certain risk to be minor in nature. Properly understanding the impact of that risk on the local community – by talking to local people, might lead to a change in this view. Importantly, this engagement must involve the council meaningfully listening and being prepared to change their approach based on what local people tell them.

This kind of intelligence can also be gleaned by speaking to frontline staff. Staff involved in directly speaking to local people are likely to have insights into their needs and how changes in services are likely to affect them.

Categorising - Risks might be categorised to make them easier to understand and manage. So different categories might be time, cost, resources, environmental and so on. This helps to group together risks which may overlap; it can also help to identify opportunities for mitigation.

A specific and understandable description for the risk needs to be provided too. This description will define how the risk is tackled and how managers and political leaders interpret and act on it. The framing of this description – the words used and the phrasing – is therefore particularly important and worthy of scrutiny.

The principle of “granularity” is important here. This is the level of detail into which risk descriptions go and how they are divided up.

<p>Resource constraints make delivery difficult to achieve</p> <p>This risk is too general. This risk is broken down into three components on the right, making it easier to assess the likelihood and impact of each, and to identify relevant actions to mitigate</p>	<p>Resource constraints in the corporate centre of the council make it difficult to carry out sufficient work to stress-test our plans</p>
	<p>Resource constraints through the management chain may make it difficult for us to understand and take action if performance dips</p>
	<p>Future resource constraints (declining funding etc) may make our new operating model unsustainable within two/three years</p>

Estimating – there are three elements to this part of risk assessment. Those making assessments on risk must make judgments on:

- The impact of the risk - often rated between 1 and 5. “Impact” is what the effect would be if the

risk actually came to pass. The impact might be the impact on the council itself (including the impact on the council's reputation), or it may be the impact on the local community. This stage has two steps - working out the effect and then deciding how serious it is;

- The likelihood of the risk - also rates between 1 and 5. "Likelihood" is an assessment of the chance of the risk coming to pass. For both impact and likelihood, an understanding of the issue involved and a willingness to be frank and candid about the assessment will make this judgment more accurate. A compliance-based approach, which sees risk management as "something we have to do", encourages managers to minimise the appearance of risk in order to keep more senior managers and politicians happy, or to ensure that they are not seen as placing barriers in the way of the council's political objectives;
- The combined total - This total is often used to compare the risk against a threshold for intervention. In some councils a risk with a combined total above 9 is enough to precipitate the involvement and intervention of senior managers, or careful planning for mitigation. A council's risk appetite will indicate how tolerant it is of the existence of items with a higher risk score.

These numeric values for risk, presented in a risk register, will need to be underpinned by evaluation.

The evaluation of risk is similar to an investment decision, and as such reflects the principles we highlighted in our guide on social return on investment (SROI). Like SROI, the effective calculation of risk involves costing it. This involves costing both the direct financial consequences of a risk coming to pass, as well as the costs expressed by wider social determinants (poorer life chances, fewer jobs, a less attractive public realm). Evaluating and costing risk (and mitigation) is important for several reasons:

- It ensures that decisions to implement controls are proportionate to organisational objectives and priorities;
- It means that this information can be used to hold decision-makers to account, because decision-makers need to be able to justify and defend their decisions with reference to this evaluation;
- It helps to maximise value, by identifying those parts of the organisation, and systems and processes, which can be cut because they do not directly contribute to enhancing the council's resilience.

(adapted from NAO, "Managing risks in government")

Assignment of ownership for risks. Making it clear where responsibility lies is critical. In their work on national Government, the NAO have found that there is often a lack of clarity over the ownership of, and accountability for, risks. Where councils are undertaking plans for major change – particular if a range of partners are involved – responsibility and accountability must still be clear. Importantly, accountability and responsibility cannot be outsourced. By and large, they will remain within the council, and will stay with politicians and senior officers. As such, those people must retain responsibility for identifying, assessing and mitigating risk.

Responses to risk, expressed through the risk register, will reflect the kinds of research we suggested needed to be carried out when we talked about risk management above. An effective risk register must be underpinned by good quality information.

Key issues for scrutiny

- How are risks identified, described and estimated? Who is involved? What evidence is used? How can local people, and user intelligence, be given a prominent place in this evidence?
- How is the subjective viewpoint of officers and councillors about those risks supported and

challenged by the risk management system?

- How do we categorise risks to maximise the opportunity of taking positive action on cross-cutting issues (particularly those that relate to partners)?

Options for scrutiny to explore

- It is probably not appropriate for scrutiny to be involved in the categorisation of individual risks as a matter of course but think about the circumstances where certain individual, key risks might be brought to scrutiny for discussion before mitigation/treatment measures are agreed (see below);
- Scrutiny can review the systems that officers have put in place to estimate risk, and can check their robustness, as well as identifying inconsistencies in those calculations within and outside the council;
- Scrutiny can play a role in ensuring that risks, and the overall risk process, is publicly owned by members.

Monitoring/reporting and treating risk

Monitoring/reporting We have in the past raised the power and value of “by exception” reporting. This is a process whereby issues that are causing particular concern can be escalated to a more senior person or people to deal with.

In a management context this might mean that where a risk is seen as having a particular impact and likelihood, and where mitigation measures for that risk are not seen as adequate or where they have not been put in place, a more senior manager might get involved.

This process requires political oversight. Certain risks may be so significant that they require direct involvement from councillors because impacts might cause particular political consequences or because they relate to “life and limb” services where failure might be catastrophic. It is appropriate that direct ownership of those risks sits with councillors.

“By exception” principles help Cabinet and scrutiny to decide which these critical business risks might be. They may take two forms:

- Risks which are identified, and which before mitigation are sufficiently serious that they require that mitigation to be designed in concert with elected members;
- Risks which have come to pass because planned mitigation has failed, resulting in their being escalated through management processes for members to take action.

As a rule of thumb, the “combined total” of impact and likelihood may incorporate a threshold beyond which risks are escalated to members as a matter of course, as we have noted above.

A “by exception” approach will demand that risk reporting does not start and end with the risk register. Looking at the whole register may result in members’ time being poorly used, rather than the opportunity being taken to prepare members to focus in on critical business risks where they can add value.

Instead, critical business risks will be escalated to members and considered in depth. Separate items on Cabinet and scrutiny agendas may result in detailed, substantive discussions about that risk presented in context with treatment and contingency plans, as well as plans for ongoing monitoring.

Treatment – the treatment of risk is about understanding how a risk might be prevented and how it might be addressed if it does occur. This is what is generally termed “mitigation”.

Mitigation of risk is a critically important issue. Decision-makers have one of a number of options to

mitigate a risk once it has been identified:

- Accept the existence of the risk without seeking to control it;
- Avoid the risk by taking steps to alter plans to eliminate it by changing the timescale of a project, or financial plans, or targets;
- Control the risk, by putting in place plans to minimise it (for a major change to local services which might cause public opposition, this might be to engage more fully and effectively with the public before the decision is formally made);
- Transfer the risk, shifting ownership to a part of the organisation who are best placed to accept, avoid or control it (although recognising that responsibility for risk itself, in a strategic sense, cannot be outsourced);
- Monitor the risk to check how it might change over time.

Members need to be assured that plans for preventing and containing risks are robust on an individual basis and that systems are in place that mean that those plans can be consistently implemented. Overall, mitigation plans must be realistic and they must take into account the time and resource constraints within which the authority works. It may be that certain risks can only be partially contained. The strength of the mitigation that can be put in place will help to define the extent to which members demand direct, regular oversight, in line with the “by exception” principles discussed above.

Case study: BIS and the Francis Crick Institute: escalate to mitigate

The former UK Government Department for Business, Innovation and Skills is the sponsor for the £750 million Francis Crick Institute, a scientific research body currently constructing a major research facility in central London.

The facility is immediately adjacent to several major rail hubs, which meant that early planning required that vibrations from overground and underground rail lines be mitigated in the design of the building, because of the need to very carefully calibrate equipment being used by the Institute for scientific experiments. However, with construction underway, the planned route of the proposed Crossrail 2 line was changed to come within 70 metres of the building. This raised the real prospect of the building being unfit for purpose.

Once identified by the Medical Research Council, the risk was swiftly escalated to senior BIS civil servants. They identified the partners involved (including contacts in London government) and sought to put in place a mitigation plan. This was then escalated again to the BIS executive board for signoff.

As a result of this cross-agency work, BIS secured agreement from the relevant partners that the safeguarding of the route should be contingent on full mitigation of the vibrations being carried out during and after construction. This has resulted in more detailed research going on to identify the precise technical constraints around the vibrations, and their mitigation, and how that might be built into the Crossrail 2 programme.

See

<http://www.nature.com/news/francis-crick-institute-raises-alarm-about-train-line-1.16978>

<https://www.crick.ac.uk/news/news-archive/2016/09/01/science-begins-in-the-new-francis-crick-institute-building/>

Key issues for scrutiny

- How do senior managers and Cabinet monitor the effective application of risk management systems?
- How do monitoring arrangements include the facility for the continuous re-evaluation of risks and of the issues to which risks pertain?
- What happens when risks change?
- What systems are in place for dealing with treatment/mitigation – and who leads?
- How do “by exceptions” work to ensure that critical risks are escalated promptly and what role does scrutiny play in this process?

Options for scrutiny to explore

- Agreement of “by exception” systems for scrutiny, to bring together performance, finance and risk information to allow crucial in-year business issues to be escalated to scrutiny where necessary;
- Having a role in oversight for the council’s risk culture, which specifically focuses on ensuring that the council accurately and frankly identifies, mitigates and reviews risks, and that members are fully sighted on the most critical issues.

Scrutiny, risk and major change

General context

Organisations undertake major change when they take steps to transform the services they deliver, or take a dramatically different approach to service delivery itself (for example, by embarking on large-scale commissioning exercises). It is important that the decisions underpinning these changes are themselves backed up with a clear understanding of the risks and benefits involved.

This starts with a clear sense of objectives. Councils will have a sense of how they want the community they serve to look in five or ten years’ time. To a lesser extent, councils will have a sense of how they will need to look, and work, to achieve that objective. This is likely to involve major change – which will involve risk. But taking risks without consciously managing them will lead to failure.

Case study: Failure of the UnitingCare partnership contract, Cambridge and Peterborough

The Cambridgeshire and Peterborough CCG, on its creation in 2013, resolved that in order for primary care in the region it served to be sustainable, an entirely new model of service delivery needed to be developed. This culminated in the award of a contract valued at nearly £750 million to UnitingCare. UnitingCare would integrate community health, mental health and acute health services under what was termed a “prime vendor” model. As prime vendor, UnitingCare would be responsible for contracting with a range of other partners for delivering its services.

This service model was innovative and initially seen as performing well – and yet within a matter of months, it collapsed. The issue is thought to have related to flaws in the financial model underpinning the contract – neither UnitingCare or the CCG fully understood whether delivery was even possible for the amount for which the bid was awarded.

Poor assessment of risk was a central factor in this failure. The NAO found that the CCG had not understood the need to put in place provisions that would pass risk over to UnitingCare, and that if

this had been understood, the level of risk therefore lying with the CCG and its partners would have been clearly understood to have been unacceptable.

The failure of the contract did not result in an immediate negative impact on local people. However, the loss of money and resources involved in the procurement exercise and its subsequent failure do continue to have consequences for the resilience of health services locally.

Cambridgeshire County Council's overview and scrutiny function undertook a detailed review into the circumstances around the failure, highlighting many of these issues. While some of these matters had, prior to the contract being let, been identified by Monitor and the CCG, the failure of the partnership threw those issues into particularly sharp relief.

Some of the scrutiny committee's findings are summarising at

http://www.cambridgeshire.gov.uk/news/article/481/health_committee_continues_scrutiny_of_ucp_contract_failure

The NAO report into the collapse of the contract can be found at

<https://www.nao.org.uk/wp-content/uploads/2016/07/The-collapse-of-the-UnitingCare-Partnership-contract-in-Cambridgeshire-and-Peterborough.pdf>

The kinds of risks that you might expect an organisation to identify in relation to major change relate closely to the kinds of issues we highlighted in our 2015 publication "The change game". They might include risks around:

- A lack of a public voice contributing to plans for change – because the public have only been “consulted”, rather than involved in a dialogue about the need for a change, or because they may even be unaware of it;
- A lack of capacity in the organisation to effect change (or plans to put such capacity in place through the process known as “organisational development” or OD);
- A lack of planning or forethought about the relationship between the council and partners (where major change may result in those relationships changing);
- Service failures (because the change being implemented is not sustainable and/or has been badly designed, and is therefore not fit for purpose);
- Future planning (because the change the council is making may make it difficult to be sufficiently flexible to account for the need to change again in the future – for example, where the change will tie the council to a particular operating model whose long-term relevance and suitability has not been tested).

Overall, there are reputational risks associated with major change. Poorly planned and delivered changes lead to short term failure and negative impacts on people's lives; these convert to long term reputational issues, as the public's impression of those using public money to deliver services is lowered, and the council finds it difficult to justify its action, or lack of action.

Getting a sense of where risks might lie and getting scrutiny involved in tackling them alongside the executive and its partners is a critical means of making major changes sustainable and reducing the risk of failure.

Increasingly, a shift in service delivery from “in house” – where accountability and governance systems are settled and well-understood – to external providers presents its own risks. Such outsourcing, contracting-out and commissioning is now commonplace in local government, but its

use is dramatically increasing as it becomes more common in a wider range of service areas. While such ways of working offer opportunities for both efficiency and bringing in different, more innovative working practices, they can also stretch and loosen accountability and responsibility for service delivery. Ultimately, the impact of risk will be for the council to deal with – which could be significant in the case of provider failure, as highlighted in the UnitingCare case study, above.

Scrutiny provides a key opportunity for public oversight of these arrangements and particular for the identification and management of risks that might otherwise sit between the provider and the commissioner.

Risk as a focus for scrutiny overall

In our 2015 publication “The change game” (<http://www.cfps.org.uk/the-change-game/>), we suggested that – rather than taking a general view of transformation projects in the round – scrutiny might want to focus in on a narrow and clearly-defined area.

The logic for this was that transformation projects are generally very broad and taking an overarching view of those projects is likely to lead to a messy and superficial piece of work. Better, we considered, to focus in on a defined area. Two options exist for such focus:

- Highlighting a small element of the transformation project to focus in on. This makes work more manageable, but means that scrutiny may fail to take into account the fundamental, strategic nature of the change – scrutiny may not be able to “see the wood for the trees”;
- Looking at the whole transformation project but through the “prism” of a particular functional specialism or local community factor. So a transformation programme could be looked at through the prism of community need, or value for money – or risk. This makes the work more manageable; it has risks of its own, of course, but it does potentially make scrutiny is broad topics more feasible.

Using risk as a focus for scrutiny is we consider a particularly powerful way of conducting reviews into major change projects. Risk is a significant factor in such projects and risk management plans need to be particularly robust. Scrutiny is well placed to provide challenge and support to Cabinet throughout the process, drawing out key political risks which may, or may not, have been identified, and ensuring that mitigation and containment measures for those risks are robust.

Another possible focus connected to risk is that of equalities and ensuring that certain individuals and groups are not adversely affected by service change. A failure to engage with the need for equality is a risk in itself and one that connects directly to the needs of local people. It also relates to an area where councils have clearly defined statutory obligations.

Scrutiny could also play a role in the initial assessment phase, helping the council to gather evidence from a wider spectrum of sources (including the local community) to ensure that risk registers and plans, once developed, are accurate and founded on a robust evidence base.



Contact:

Ed Hammond
020 3866 5109
ed.hammond@cfps.org.uk

77 Mansell Street London E1 8AN
telephone **020 3866 5100** email **info@cfps.org.uk** twitter **@cfpscrutiny**

www.cfps.org.uk

Centre for Public Scrutiny Limited is a registered charity: 1136243 and a Limited Company registered in England and Wales: 5133443