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Title: **Progress Report on Risk Management**

Wards Affected: **All Wards**

To: **Audit Committee** On: **23 March 2011**

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## **1 Key points and summary**

- 1.1.** The purpose of this report is to update members of the Committee on the recent activities and progress being made within the Risk Management Division (Governance), in accordance with the agreed timetable of reports.
- 1.2.** The Risk Management Division comprises the following sections:-
- Insurance Services
  - Corporate Risk Management
  - Emergency Planning
  - Claims Handling
  - Corporate Health & Safety
- 1.3** The Division is responsible for ensuring that the Council meets both its statutory and contractual obligations in relation to:-
- Health & Safety at Work Act 1974
  - Civil Contingencies Act 2004
  - Civil Procedure Rules 1998
  - Contracts of Insurance
  - Fidelity Guarantee Insurance
  - Local Government Act 1972
  - Corporate Manslaughter & Homicide Act 2007
- 1.4** The Corporate Plan 2007-11 included as a key project to implement the Risk Management Strategy and ensure the proper risk assessment of projects and regular review of risks (both corporately and within Business Units) with appropriate mitigation measures.
- 1.5** In 2008/09 the Audit Commission introduced a new way of assessing how well organisations are managing their resources to deliver value for money and better and sustainable outcomes for local people, which is known as the "Organisational

Assessment". The inspectors' terms of reference are known as the "Use of Resources" to measure the Council's performance.

- 1.6 The Commission has produced a number of Key Lines of Enquiry (KLOE) which forms the relevant criteria against which the Council will be judged.
- 1.7 KLOE 2.4 relates to how well the Council manages its risks and maintains a sound system of internal control by:-
  - effective risk management
  - a clear strategy and effective arrangements, including allocation of appropriate resources
  - a sound system of internal control

It should be noted however that the Use of Resources regime is a more holistic approach and the areas under review, although heavily centred on KLOE 2.4 will cover all KLOE's.

## **2. Introduction**

- 2.1 This report demonstrates how the Council is pro-actively managing its risks together with the beneficial outcomes from a corporate and operational stance.

## **3. Background**

- 3.1 The Risk Management Division was set up in 1998 which initially included Claims Handling, Health & Safety and Insurance. In 2005 Emergency Planning joined the Division and then in 2008, the post of the Emergency Planning and Corporate Risk Manager was created.
- 3.2 It was seen that there was a direct link in the management of risk between Health & Safety, Insurance, Claims Handling, Emergency Planning, Business Continuity, and Corporate Risk Management. By bringing these disciplines together it has enabled the Authority to take ownership of the management of risk with the close collaboration of these departments not only in terms of operational risks but by linking in with Business Continuity Management arrangements and strategic risks in the event of an emergency, which has highlighted the need for `training of Members, Commissioners and Executive Heads and managers.
- 3.3 The sections in the Risk Management Division, work closely together, are committed to continuous improvement and implementation of effective risk management arrangements across the Council which in turn produces financial benefits through generation of savings, maintaining a good reputation and working more efficiently and effectively.
- 3.4 The Division provides a package of specialist technical advice and assistance to the Council and its community. There is excellent communication and co-operation between the separate elements which yields an all-inclusive service.
- 3.5 The benefits of an internal Risk Management Division provides a collaborative response to the management of Risk both in terms of opportunities and threats

faced by the Council, enabling the Council to respond to an ever changing environment ensuring that it achieves its planned outcomes.

## **4. Insurance Services**

### **4.1 Introduction**

A briefing report 76/2009 was presented to Audit Committee on the 25 March 2009 (Appendix 1) which provided an overview of Torbay Council's Corporate Insurance Function and was followed by an updated report on the 24 March 2010 (83/2010).

The following is a summary of events which have occurred since the last report.

### **4.2 Insurance Placement**

Insurance renewal negotiations were concluded in December 2010 following a protracted negotiation with Insurers who were looking to change the terms (break of the Long term agreement and an increase in premiums for one class of business) of the already existing terms agreed in November 2006 when the overarching terms were set for a period of 5 years. This stance was robustly defended by the Council as the merit for adversely revising terms had no substance for doing so both in terms of risk exposure and claims. A very important point for Torbay Council who are due to tender (to be advertised in the Official Journal of the European Union) all corporate insurances later on this year, the result being that the reputation of Torbay Council still remains an attractive risk to potential Insurers.

The existing Insurer's stance of re-evaluation of their proposal coupled with sound risk management evidence is acknowledgement that Torbay Council is seen as an attractive risk to Insurers in terms of the way our business is conducted, the policies and processes in place to effectively identify and manage risk where possible together with the effective and robust management of claims when they arise.

The main features of the insurance renewal where continued savings were made were:

#### **Examples of the continued benefits for the 2010/11 terms are:**

- Motor - reduction in rate per vehicle under the fleet from £579 per vehicle to £515 per vehicle in recognition of the reduced risk following the transfer of the higher risks vehicles to the Joint Venture Company. . A saving of £5,248
- Reduced Aggregated Stop Loss (ASL) from £1,000,000 to £750,000 (casualty). This significant reduction remains in place for the life of the liability policies for any future casualty claims that occur, irrespective of when the claim is brought against the Authority.
- No inflationary increase to deductibles, engineering and motor for 2010/11 renewal.
- Insurance premium tax paid at 5% avoiding the increase to 6% applicable from January 2011. (A saving of £6k).

- Confirmation that the Authority will be released from the Long Term Agreement (set in November 2006) without penalty if we chose to join a Local Authority Mutual.
- Adjustment of premiums mid term to reflect transfer of risks to JVCo – approximate saving £60k.
- Reduced premium rate (30% reduction) and nil deductible applied to Kings Ash Primary School for the fire perils in recognition of sprinkler system installed. Further consideration will be applied in respect of the Sprinkler system installed at Torquay Community College when the official sign off has been approved by the Insurer.
- Insurer to continue to waive Liability claims handling charge which at the outset of the Long Term Agreement was charged at almost £20k per annum.
- Continued benefits of wider cover and competitive terms have been maintained by the Museums policy provider for the very specific nature of this risk.

Taken as a whole these terms continue to represent good value and with the reduced aggregate stop loss on the Liability policies has enhanced the Council's protection.

The Council has been able to continue to "capitalise" upon already good terms and this reflects the present competitive state of the insurance market.

It also demonstrates how Insurance Underwriters rate risk and convincing them of the Authority's commitment to Risk Management using the knowledge gained from the others sections within the Risk Management department (as outlined in this report) as well as other Council departments should not be underestimated. Without such commitment the impact for the cost of risk transfer to the Insurance market could indeed be far more than the favourable rates we enjoy at present. This particular aspect will be a critical part of the forthcoming tender process.

#### 4.3 **Independent Advice**

Independent Broker Marsh Ltd, a leading worldwide specialist in the Public Sector, are retained to provide year round professional advice to the Authority and assist with tender negotiations when required as part of their service contract with the Council.

#### 4.4 **Benchmarking**

The Council again participated in the 2010 Cipfa insurance benchmarking programme along with 65 other Unitary Authorities. The results of the survey continue to support the position that the Authority has achieved the widest scope for the Insurance programme chosen and at highly competitive rates. (See Insurance Section extracts (Appendix 1 – comparison with Unitary Group and Appendix 1a – self comparison, both reports over a 5 year period)

The information will also be used for the forthcoming insurance tender as evidence of the management of risk undertaken by the Authority.

Motor Insurance comment – rate per vehicle – although the rate has been reduced to reflect the transfer of the higher risk vehicles to the JVC, it is anticipated that this rate will be improved at the forthcoming tender as recognition of the fleet vehicles remaining with the Council – providing the claims support this position.

#### **4.5 Insurer's response to policy cover to address emerging changes of risk**

Insurers have responded to emerging areas of risk in the insurance market by including additional cover to existing policies for example:-

Terrorism – (PL) increased the limit of indemnity from £5m to £25m

Corporate Manslaughter and Corporate Homicide Act 2007 – Insurers will indemnify Insured against legal costs and expenses incurred in defending any criminal prosecution. Indemnity limit is £50m but excludes any deliberate or intentional criminal act, fines or penalties.

Legionella – cover for outbreaks resulting from premises owned or operated by the Council where there is a discharge resulting in pollution or contamination.  
Environmental Liability – £1m indemnity for clean up costs where the incident is sudden, identifiable, unintended and unexpected and where the Council is legally liable to pay arising from environmental damage caused by pollution or contamination where such liability arises under an environmental directive, statute or statutory instrument.

#### **4.6 Insurance Fund**

An interim actuarial review of the Council's Insurance fund was undertaken in 2010 to confirm adequate sums were in place to meet the costs of claims (including projected claims) falling within the Council self insurance retention (SIR) and specified earmarked amounts for uninsured and self insured areas of risk.

#### **4.7 Insurance Tender 2011**

A strategy for the forthcoming insurance tender has been put in place to ensure that the Council is fit for purpose when seeking the most suitable and advantageous insurance terms available at the time of the tender:-

- Programme Optimisation project – review of the Council's current programme of insurances
- Actuarial review of the insurance Fund – to ascertain the adequacy to meet current and future liabilities
- Risk Management /data collection for compilation of market presentation together with criteria for application by prospective Insurers (i.e. financial rating, capacity, technical ability, pricing sustainability and value added services).
- Advertise the Insurance Contract in the Official Journal of the European Union. The OJEU procedures are designed to ensure open, transparent and a

competitive environment. Insurance is a particular discipline which requires specialist considerations to avoid OJEU procedures having an adverse effect.

- Issue of tender specifications to applicants meeting criteria
- Closing date for tenders followed by contract evaluation in line with required criteria
- Alcatel (standstill period)
- Contract award

In recent years the Insurance market has remained competitively priced for those risks for which it can be demonstrated are performing well. Insurers have become more selective in addressing poor risks and have taken a harder stance on claims. Insurers expect their clients to be pro-active in managing risks.

It has been muted for sometime now that Insurance terms are going to harden in the Market, therefore it is paramount that the tender specification is both comprehensive in representing the insurable risks for Torbay Council, demonstrates that claims are managed to a high standard and that there is a pro-active risk management culture within the Authority – only by encompassing all of these elements can Torbay Council look to achieve the right insurance placement at the most favourable terms available.

#### **4.8 Summary**

The Council has overall enjoyed a good claims history which has enabled the Council to transfer financial risk and obtain a competitively priced insurance program.

The savings made over the past few years when renewing the Corporate insurances reflect ongoing positive risk management and claims performance of the Authority. Insurers have in recent times been more willing to “reward” better managed risks. The insurance market remains stable and competitive a stance supported by Marsh with the outcome of recent tenders. There is no evidence of any major changes to market conditions but there is a degree of volatility given the worldwide catastrophe losses. Therefore, there is still an increasing requirement for Local Authorities to provide full risk information to Insurers who are looking for evidence of a sound and progressive risk management policy. In this regard the early identification of risks (operational and strategic) together with the measures put in place to mitigate risk (whether insurable or not) are required when demonstrating to Insurers the ways in which the Authority proactively manages risk. Part of this action will be in the form of a Risks Management Strategy and a Risk register, a tool which must be regularly reviewed and which responds to new and emerging risks.

Another important factor is the overlap between the remaining Risk Management Sections, Health and Safety (H & S), Emergency Planning, Claims Handling and Insurance each informing the other of potential risks (through H & S incident reporting, trends highlighted in claims made, issues highlighted from emergency planning events (real and staged) and information exchanged/shared with Insurers, Insurance Brokers, Solicitors and other Local Authorities as well as queries raised

through client departments). This information is seen as an important and vital resource which is shared Council wide ( and where appropriate with Partner Organisations/Community Groups) to address and implement recognised good practices, thereby mitigating risks and ensuring the best use of resources.

## **5. Corporate Risk Management**

- 5.1 The Corporate Risk Management department is committed to continuous improvement and work is ongoing to further strengthen the links with business planning and performance management.
- 5.2 The risk management strategy and toolkit have been published, supported by an awareness campaign using all-staff emails and Insight. This was followed by a complete review of the risk register which is now published on SPAR.net.
- 5.3 Business unit risk registers are now in place; this new level of risk within the council is a large step forward in risk maturity. Risk is also now included as part of the service managers monthly meetings.
- 5.4 The profile of risk management has risen significantly following a structured programme of corporate risk management training. A set of bespoke training sessions have been conducted with COG, executive heads and service managers.
- 5.5 The SPAR system is now the main tool for managing, reviewing and reporting on risk throughout the council. A SPAR Risk user guide has been created, which was supported by a large scale roll-out of training supported by ICT. We have recently completed a number of minor software developments and the system is now fairly robust in its use for managing risk.
- 5.6 The intranet based risk management training is currently under review. The intention being to replace the existing system with a generic induction package as part of the DLE website.

## **6. Business Continuity Management**

- 6.1 Work is ongoing in reviewing the council's Business Continuity Management Plans. A self-assessment questionnaire is being developed in order to determine the council's current position at business unit and service area levels.

## **7. Emergency Planning**

- 7.1 A number of actions were implemented following the instances of severe weather last year in order to increase our resilience to severe weather events.
- 7.2 The Emergency Planning Team continues to work closely with Torbay Care Trust in order to strengthen existing collaborative working arrangements. A plan for accessing vulnerable people data has been finalised and tested as part of the multi-agency exercise conducted in March.
- 7.3 Since the formation of the joint venture company, TOR2, the Emergency Planning Team has undertaken a large volume of work including reviewing emergency plans, extensive consultation regarding 24hr Control Centre, revision of standard operating

procedures, updating of emergency cascade arrangements, emergency planning training with TOR2 staff.

- 7.4 Working in collaboration with the Local Resilience Forum (LRF), work is ongoing to review the access to and provision of transfer station fuel stocks in the event of a fuel crisis.
- 7.5 Following changes to the Flood Warning service we receive from the Environment Agency the Council's standard operating procedures have been reviewed and updated.
- 7.6 The Council's Bomb Threat Procedures have been reviewed and updated.
- 7.7 The Emergency Planning Team has been involved in extensive consultation in respect of the Parkfield House Development and undertaken a large volume of work to provide meaningful advice on flood evacuation plans.
- 7.8 The Emergency Planning Team has organised and/or taken part in exercises including:
  - RAYNET Exercise Watermark
  - Tested the Business Continuity Plan with Waste and Cleaning
  - Attended and assisted at a Torbay United Football Club evacuation exercise
  - Assisted with TCT Rest Centre Exercise
  - Organised a multi-agency flood pollution exercise to involve amongst others: Torbay Council Staff, Elected Members, Harbour Services and Maritime Coast Guard Agency etc.
  - Sent staff on Maritime Coastguard Agency 4 day pollution response Course
  - Sent staff on North Devon Maritime Coastguard Agency Beachmaster Course
- 7.9 The Emergency Planning Team has Responded to the following incidents:
  - Snow / Ice
  - Council wide IT / phone failure
  - Brixham Chimney Collapse
  - UXO on Beach
  - Pollution report in Sherwell Valley Watercourse
  - Collision between Super Tanker and Fishing Vessel
  - Collision between Fishing vessel and Brixham Breakwater
  - House Fire – 3 Norman Road
  - Hotel Fire – Palm Court Hotel

## **8. Claims Handling Section**

- 8.1 This section investigates and has conduct of all claims valued within the excess upon the liability insurance policies and handles those over the excess in conjunction with the insurers and external solicitors.
- 8.2 The performance of the section is measured both internally (SPAR) and externally (CIPFA and insurer's audits). Its targets have been met or exceeded upon a regular basis. Please find attached the 2010 audit undertaken by Zurich Municipal which awarded an overall score of 96%. Appendix 9



- 8.3 Overview & Scrutiny reviewed Claims Handling in June 2008 as part of an evaluation of Litigation and Enforcement. (Report OSB/12/2008)
- 8.4 The section has a proven track record of providing high quality, efficient and robust service for over 10 years. As a result of working closely with the Highways Division, a Code of Practice for Highway Safety Inspections was developed and implemented which has had and continues to have a significant impact on the number of successfully defended highway claims.
- 8.5 The section continues to work closely with other departments to ensure that, where practicable, robust defences can be mounted in respect of all claims.
- 8.6 The team works alongside Health & Safety in promoting good working practices together with providing advice and guidance and have contributed to the numbers of Employers' liability claims being reduced year on year.
- 8.7 During 2009/10 the Council received 178 liability claims of which 30 have been settled to date. This only reflects a snapshot of what is happening on the ground during those 12 months. However, the long-term statistics show that the numbers of all claims being received have reduced overall since 1998.
- 8.9 Since 2000 the Council has, on average, succeeded at court with 50% of its cases.

## **9. Corporate Health & Safety**

- 9.1 The Corporate Health and Safety team are an internal cross cutting resource which protects the Councils assets and staff by the provision of legal and technical advice, guidance and best practice on health and safety matters affecting the Council as an employer and owner/occupier of premises. Working within the risk management division provides the opportunity for enhanced communications and assistance (multi-skilling) and support within the individual teams.
- 9.2 Accident incident rates to date this year compared with previous records continue to decrease even with the transfer of personnel to TOR2.
- 9.3 A new accident recording system is currently being developed in house by our IT colleagues with a view to enhanced recording, and electronic reporting throughout the Council increasing efficiencies and cost effectiveness.
- 9.4 Improvements of health, safety and fire training courses developed and implemented by the in house team have increased the take up of training across the Council. Together with increased take up of the online health and safety training systems have resulted in the equivalent saving of £59,000 so far this year.
- 9.5 Benchmarking was carried out with other local authorities through the Regional bench marking club. Results are compared with other to ascertain methods of working, accident/incident rates and costs of providing the service. The results are attached.
- 9.6 Stress cases being monitored with Occupational Health have shown an increase in total number of cases reported in the year to date (70 compared to 68). However the majority of cases are not work related. Each referral results in line managers being

contacted to ensure that procedures and controls are put in place to support the employee's eventual return to work.

- 9.7 Audits of business units were completed in October with results being fed back to the individual Executive Head and action plans being developed and implemented.
- 9.8 Targeted audits of 9 schools within the authority have been undertaken with agreed outcomes and action plans being implemented by the schools management teams.
- 9.9 The Councils revised Health and Safety policy was published in September 2010 following improvements and full consultation.

## **10. Conclusion**

The areas of work of the 5 units, that form the Risk Management Division, are closely interlinked. The aim of the section is to provide a professional and technical function to protect the Council's finances (public purse), its assets (resources), operationally (safely and efficiently) and strategically, maintain a good reputation (businesslike) and provide best value to the Authority to achieve its planned outcomes.

It is important to evidence that the Council's risks are being managed at all levels (strategically and operationally).

The Division strives to provide a high quality, pro-active and comprehensive fully integrated service to both minimise the impact of risk and maximise the potential for opportunities enabling the Council to meet its obligations, priorities effectively and efficiently.

## **Appendices**

Appendix 1 and 1a - Extracts from CIPFA Benchmarking Report 2010 (Insurance Section).

Appendix 2 - Claims Handling Audit Report by Zurich Municipal 2010.

Appendix 3 – H & S Benchmarking data

## **Background papers:**

The following documents/files were used to compile this report:-

CIPFA publication – Risk Management in the Public Services

CIPFA Benchmarking Report 2010 – Exempt document

LACHS database

SPAR database

Audit Commission website

IOSH GUIDELINES

Corporate Plan 2007/11