

Committee	Dated:
Audit and Risk Management	23.05.2017
Subject: Deep Dive: CR09 Health and Safety	Public
Report of: Director of HR	For Information
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Summary

Corporate Risk 09 concerns the City of London Corporation's health and safety Management System and its application. Effective Health and Safety management enables innovation, growth and enhances productivity, as well as helping the City Corporation to achieve its strategic objectives.

Protecting the health and safety of employees and others including members of the public who may be affected by the City Corporation's activities is an essential part of successful risk management. Failure to comply can have serious consequences – for both organisations and individuals. Sanctions include fines, imprisonment and disqualification.

In 2016 the City Corporation achieved a score of **four stars** rating out of five possible stars in a British Safety Council audit. Four stars reflect a *very good* rating. This external validation gave confidence in the safety management system and provided opportunities for implementing further improvements. As part of good management, the challenge with any system is to ensure quality and maintain consistency. However, consideration should be given to re-evaluating and potentially lowering the risk score (reduced chance of an event not the impact) before the end 2017.

There is no current indication that there will be significant changes to the UK's health and safety legislative framework after leaving the EU.

Socio-demographic along with scientific and technological changes are likely to pose new challenges and opportunities. The City Corporations health and safety management system will need to remain flexible to ensure that risks (and opportunities) in the changing workplace are effectively controlled.

Recommendation

Members are asked to note the report.

Main Report

1.0 Background

- 1.1 The basis of British Health and Safety law is the *Health and Safety at Work etc. Act 1974*. The Act sets out the general duties which employers have toward employees and others including members of the public and employees have to themselves and to each other.
- 1.2 These duties are qualified in the Act by the principle of '*so far as is reasonably practicable*'. In other words, an employer does not have to take measures to avoid or reduce the risk if they are technically impossible or if the time, trouble or cost of the measures would be grossly disproportionate to the risk. The law requires effective management and informed common sense, which employers should be achieving anyway.
- 1.3 Failure to comply with these requirements can have serious consequences – for both organisations and individuals. Sanctions include fines, imprisonment and disqualification.
- 1.4 Under the *Corporate Manslaughter and Corporate Homicide Act 2007*, an offence is committed where failings by an organisation's senior management are a substantial element in any gross breach of the duty of care owed to the organisation's employees or members of the public which results in death. The maximum penalty is an unlimited fine and the court can additionally make a publicity order requiring the organisation to publish details of its conviction and fine.
- 1.5 Employers are required to make suitable (health and safety) arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures. Effective health and safety management enables innovation, growth and enhances productivity, as well as helping organisations achieve their strategic objectives.
- 1.6 The City Corporation's health and safety management system (arrangements) apply a *Plan, Do, Check, Act* approach, attempting a balance between the systems and behavioural aspects of management. It also treats health and safety management as an integral part of good general management, as opposed to a stand-alone system. The Health and Safety (People) Team are the custodians of the health and safety management system.

2.0 Current Position: Corporate Risk 09 Health and Safety

- 2.1 The CR09 risk description is:
Cause - Safety is treated as a low priority by the organisation, lack of training of staff and managers, management complacency, poor supervision and management.
Event - Statutory regulations and internal procedures relating to Health and Safety breached and/or not complied with.

Effect - Possible enforcement action/ fine/prosecution by HSE, Employees/ visitors/ contractors may be harmed/ injured, Possible civil insurance claim, Costs to the Corporation, Adverse publicity /damage to reputation, Rectification costs.

2.2 **Current Risk Score - 12:** Impact 4 (*major*) x Likelihood 3 (*possible*) [**May 2017**]

2.3 This Corporate Risk (CR) is reviewed on a regular basis at a frequency not exceeding three months. At each review the agreed actions designed to mitigate and manage this risk are reviewed, along with the system of internal controls. An evaluation of the risk score is undertaken based on a judgement of efficacy of the current controls. Consideration is given to any emerging evidence which could challenge the level of control.

Risk actions:

2.4 An external audit on the City Corporations health and safety management system was completed in 2016 by the British Safety Council applying their 'Five Star' accreditation scheme (Action: **CR09A**). The City Corporation achieved a score of **four stars** out of a possible five, reflecting a rating of *very good* rating. This external validation gave confidence in the robustness of the safety management system and provided opportunities for further improvements which were developed into an action plan (Action: **CR09D**).

2.5 Like many large organisations the City Corporation may become aware of credible risk information through external contact, such as liaison with clients and service users. At present the majority of this type of risk information resides at the departmental level. The Personal Safety Visiting Tool (PSVT) is a new initiative being rolled out in 2017 by Corporate Health and Safety (People) and the Safer Communities project. It aims to provide departments' access to a corporate register of issues they and other visiting officers have encountered at various residential properties. The PSVT should enable all necessary departments to appropriately share their data, creating a seamless source of information to aid in the safety of all staff, recognising the interconnectedness of risk (Action: **CR09E**).

2.6 There is an established annual inspection and audit programme for Property and People health and safety. For example, audit, inspections and compliance checks have focused on water hygiene (legionella), fire safety, asbestos management, workplace transport and lone working/preventing violence. These are currently considered to be the areas of higher risk profile within the City Corporation (Actions: **CR09B** and **CR09C**).

3.0 System of Internal Controls (IC):

The following section highlights some of the key internal controls and systems in place to ensure the health and safety management system remains effective and relevant.

- 3.1 The City Corporation has an effective officer-led *Health, Safety and Wellbeing Committee* which is chaired by the Town Clerk and Chief Executive. Its function is to advise and make recommendations to the City Corporation's Chief Officers on matters relating to the overall management of health, safety and wellbeing as established under the Health, safety and Wellbeing Policy.

New Corporate Transport Policy

- 3.2 Driving is the one of the most hazardous work activities. It contributes to far more accidental deaths and serious injuries than all other work-related tasks. The City Corporation has introduced a *Corporate Transport Policy* along with associated procedures and guidance to manage occupational road risk. Embedding of the policy continues, with focus during 2017 on assuring compliance across the City Corporation.

Health and Safety Training

- 3.3 The City Corporation has an extensive central health and safety training programme aligned to meet competency requirements. During January – April 2017 nineteen different face-to-face health and safety courses were delivered from *Accident Investigation* and *Asbestos Awareness* to *Working at Height*. Training and development included bespoke courses designed to meet particular needs and support the City Corporation to manage and mitigate risk, such as the *Health and Safety Senior Leadership Session* for the Barbican Centre (reference: **Corporate Risk 22: Barbican Fire Safety Risk**).

Most significant H&S risks

- 3.4 The Covalent (Risk Management Information System) is used to manage significant health and safety risks. Covalent enables departments to highlight their safety risks as a 'Top X' risk, emphasising any activities with considerable implications that are un-mitigated, or where there is a lack of clarity.

Exceptional health and safety performance

- 3.5 Exceptional health and safety performance is recognised and celebrated through the City Corporations *Staff Awards*. Last year New Spitalfields Market won the *Excellence in Health and Safety* for the significant improvements (previously a *Top X Risk*) to managing workplace transport. Accidents between vehicles and pedestrians were significantly reduced with a corresponding reduction in potential exposure to the City Corporation from enforcement action and/or civil litigation.

Key Performance Indicators

- 3.6 The City Corporation has established Key Performance Indicators (KPIs) for health and safety including accident/incident reporting and investigation. The health and safety professionals have supported departments with their more challenging and/or significant health and safety investigations. This has helped to ensure that lessons are learned and are fed back into the development of the health and safety management system.

Property H&S management

- 3.7 The City Surveyors (Property) Health and Safety Team established its *Health and Safety Strategy* in 2016 following the appointment of a new manager. There are also two specialist advisors for fire safety, and asbestos and legionella, which are considered key risks across the organisation. Policy and procedural development have focused around these areas of risk / building compliance.

4.0 Corporate & Strategic Implications:

- 4.1 An established legal principle (case precedent) is that health and safety enforcement action can proceed on the basis of risk i.e. a loss does not have to occur for a successful prosecution (R-v-Board Trustees of the Science Museum: 1993).
- 4.2 The Sentencing Council published its guidelines for health and safety offences including Corporate Manslaughter in 2016. This marks a significant change by trying to ensure that those found guilty of health and safety offences are heavily penalised by the courts. It has resulted in a marked increase in the level of fines (which cannot be insured against). Fines are based on an organisations turnover rather than profit, even for a 'medium' sized organisation fines typically range from hundreds of thousands to several million pounds for those found most culpable of offences.
- 4.3 Between February 2016 and August 2016, health and safety fines totalled £20.6 million, compared to £14.4 million in February 2015 to August 2015. It should also be noted that the use of *publicity orders*, requiring organisations to publish details of convictions for Corporate Manslaughter offences have grown.
- 4.4 The number of Directors prosecuted for health and safety offences has increase significantly in recent years. Data confirms that the Health and Safety Executive (HSE) are displaying an increased zeal to prosecute the most senior individuals within organisations.

5.0 Horizon scanning

- 5.1 There is no current indication that there will be significant changes to the UK's health and safety legislative framework after leaving the EU. To note that, however, European Union driven legislation (Directives) has already been translated into United Kingdom law primarily as Regulations (subordinate legislation) under the Health and Safety at Work etc. Act 1974.
- 5.2 Socio-demographic along with scientific and technological changes are likely to pose new challenges and opportunities, such as:
- Increased connectivity of devices, systems, people via the internet / cloud platforms;
 - Changes to work patterns, the working environments and technology;
 - The generation gap – Towards generation 'Z' in the next 10 years

5.3 The City Corporations health and safety management system will need to remain flexible to ensure that risks (and opportunities) in the changing workplace are effectively controlled.

6.0 Strategic links:

Corporate Plan 2015-19 including KPP2: *Improving the value for money of our services within the constraints of reduced resources*
Human Resources (High Level) Business Plan 2017/18.

7.0 Conclusions:

7.1 There are a number of mechanisms the City of London Corporation utilises to mitigate and manage its health and safety risks. The small team of competent persons continue to develop the safety framework, and focus towards assuring the organisation.

7.2 Enforcement action and/or civil litigation remain a possibility should a potential failure or loss occur. This does not detract from the fact that there is a reasonably robust safety management system in place, as validated by the British Safety Council's external audit in 2016. The challenge with any system is to ensure quality and maintain consistency. However, consideration should be given to re-evaluating and potentially lowering the risk score (reduced chance of an event not the impact) before the end 2017.

7.3 As the safety culture continues to mature, and awareness of interconnectedness of risks becomes more apparent, good health and safety leadership and management will continue to be vital to the future success of the City Corporation. This involves implementing a strong health and safety management system that can react quickly and effectively, recognise risks and address them in a timely proportionate way.

Further Information:

HSP 1: Corporate Health, Safety and Wellbeing Policy
HSPR 2: Annual Certificate of Assurance Procedure
HSG 2: Top X Risk Profiling Guidance

Appendices

- Appendix 1 – Risk and Progress Summary for CR09: Health and Safety

Background Papers - None

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