

Committee(s)	Dated:
Audit and Risk Management Committee	19.11.2019
Subject: Deep Dive: CR09 Health and Safety	Public
Report of: Chrissie Morgan, Director of Human Resources	For Information
Report author: Justin Tyas, Health Safety and Wellbeing Manager (People)	

Summary

Corporate Risk 09 concerns the City of London Corporation's health safety and wellbeing Management System and its application. Effective Health and Safety management enables innovation, growth and enhanced 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.

Since the last CR09 Deep Dive in November 2018:

- A revised risk description has been agreed so it is better aligned to the City Corporations objectives and remains relevant. The target risk score was also adjusted (reduced)
- Good progress has been made with the annual audit and inspection programmes for People and Property health and safety
- A key priority remains fire safety compliance and, as such, a Fire Safety Compliance Officer was appointed in mid-2019
- Policy development includes refreshing the overarching Corporate Health Safety and Wellbeing Policy, along with new corporate policies for Lone Working / Preventing Violence and Lifting and Work Equipment
- The health safety and wellbeing monitoring arrangements have been augmented and re-aligned to the Corporate Outcomes.
- A fatality to a member of public in the Men's Pond (Hampstead) in June 2019 was investigated by the Health and Safety Executive. They have concluded that it was not a "work-related" accident, and also that no further action is being brought against the City Corporation. Robust application of our health and safety management system has had a 'protective' effect.

Recommendation(s)

Members are asked to note the report.

Main Report

Background

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.
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.
3. Failure to comply with these requirements can have serious consequences – for both organisations and individuals. Sanctions include fines, imprisonment and disqualification.
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.
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 enhanced productivity, as well as helping the City Corporation achieve its strategic objectives.
6. The external enforcing authority for health and safety at the City of London of London Corporation is the Health and Safety Executive (HSE). Fire safety is enforced by the Fire and Rescue Service (Fire Brigade) under separate legislation (Regulatory Reform (Fire Safety) Order 2005).
7. The City Corporation's health and safety management system (using the HSE's *HSG 65* model) 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 Safety and Wellbeing (People) Team (in Corporate HR) are the custodians of the health and safety management system.

Current Position: Corporate Risk (CR) 09 - Health Safety and Wellbeing Risk
(management system):

8. The Audit and Risk Management Committee "Deep Dive" (Nov 2018) suggested that *'consideration be given to revisiting or splitting the current CR09 risk in order to focus on one or two more specific health and safety risks, such as fire safety compliance, was endorsed'*.
9. CR09 was discussed twice at the Health Safety and Wellbeing Committee, at Chief Officer Risk Management Group and further by key stakeholders. There was no consensus on splitting the risk, but it was agreed that the risk should be re-scoped, and the risk score reviewed.
10. A revised risk description was endorsed at the Health Safety and Wellbeing Committee in September 2019, and the Target Risk Score was also revised (reduced).
11. The CR09 revised risk description is:
Cause - *Lack of management grip/attention to effective health and safety in the workplace, management and staff competency, poor supervision and guidance, and ineffective controls and monitoring / feedback systems.*

Event - *Significant breach/non-compliance with Statutory regulations and/or internal H&S policies and procedures by staff/managers whilst undertaking/delivery of City Corporation functions.*

Effect - *Fatality or life-threatening illness / disease compromising the safety and wellbeing of service users, public or the workforce, potential enforcement action/financial penalties to City Corporation. Adverse effect on the delivery of the Corporate Plan: Especially Outcomes 1 & 2*
12. **Current Risk Score - 12: Major x Possible [October 2019]**
13. This Corporate Risk (CR 09) 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.
14. **Target Risk Score – 8: Rare x Extreme [Reduced from 12 to 8 in October 2019].**

Risk Actions
15. 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 (Action: **CR09J**).

16. Following the tragic fire at Grenfell Tower there has been increasing Corporate demand for reassurance on the suitability and sufficiency of the Corporation's fire safety management system, especially fire risk assessment. It has been possible to answer simpler enquiries such as '*are all Department property fire risk assessments in place?*' through reallocation of existing resources but subsequent questions regarding the quality of said fire risk assessments or if all actions from the fire risk assessments been closed out by Departments are more time consuming and complex to answer.
17. The Corporate Health, Safety and Wellbeing Committee, which had been monitoring the situation, recognised the need for an additional resource that could target auditing, compliance and offer additional support to Departments who are responsible for implementing key sections of the Corporate fire safety management plan. Request for Additional Funding of a Fire Safety Compliance Officer Post was made to Resource Allocation Sub-Committee (December 2018). The new post of Fire Safety Compliance Officer sits in the Property Health and Safety Team (City Surveyors) and was recruited in July 2018.
18. Training and development for Senior Management in larger organisations is one of the most important parts of any safety programme. The senior leadership team must be 'on-board' in order to give the safety initiative weight – and to understand how good safety practice contributes directly to service delivery, profitability or both. Senior managers need to understand their own role and accountabilities in 'making safety happen' (particularly in light of the Corporate Manslaughter legislation). Without the support and 'buy-in' of the Senior Management team, any health and safety programme will inevitably falter – and fail to deliver the benefits expected.
19. A programme of interactive senior leadership health and safety briefings was delivered for Chief Officers and their reports. This included all the higher risk profile departments as represented on the Health Safety and Wellbeing Committee. In addition, briefings were also completed for two of the City Corporation's Independent Schools and for the Guildhall School.
20. The top (and persistent) reason for reported sickness absence at the City Corporation is *anxiety/stress/depression/other psychiatric illnesses*. Grounded in a growing body of the evidence including awareness of best practice, the "CityWell" (employee wellbeing) programme was re-focused, following a report to the Establishment Committee in 2018 on mental health as the top priority, supported by a wider health promotion / wellness programme. A mental health and wellbeing action plan is in place and it is being regularly monitored.

System of Internal Controls (IC)

21. 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.

Health Safety and Wellbeing Committee

22. The City Corporation has an effective Chief officer-led Health, Safety and Wellbeing Committee which is chaired by the Town Clerk and Chief Executive. This sets the tone from the top and facilitates buy-in. 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.

Corporate Health Safety and Wellbeing Policy

23. The Corporate Health Safety and Wellbeing Policy (HSP 1) was refreshed and amendments were then endorsed by the Establishment Committee (December 2018). The main changes were:
- Explicit reference made to the Corporate Plan (2018 – 2023) and its desired outcomes
 - Managers responsibilities for promoting the City Corporation's equality and inclusion objectives were added
 - A new appendix was agreed setting out the *Health and Safety Responsibilities for Schools* with the aim of ensuring clarity was given to the responsibilities for the Multi-academy Trusts and other such arrangements.

Corporate Lone Working / Preventing Violence Policy

24. In December 2018 the Establishment Committee endorsed a new corporate Lone Working / Preventing Violence Policy. The purpose of the policy is to set a corporate framework with articulated responsibilities and arrangements, to protect staff, so far as is reasonably practicable, from the risks that are associated with lone working, violence and aggression.

New Corporate Lifting and Work Equipment Policy

25. The new Arrangement sets standards that aim to make working life safer for everyone using and encountering Corporation owned and operated machinery /equipment. In achieving this aim, an intended benefit is improved compliance with the Provision and Use of Work Equipment Regulations 1998 and the Lifting Operations and Lifting Equipment Regulations 1998.
26. The new Policy was agreed by Summit Group in September 2019 subject to minor revisions. A new Corporate Pool Water Quality Policy was also agreed. In addition, revised Corporate Fire Safety and Control of Asbestos Policies were agreed by Summit Group in January 2019.

Most significant health and safety risks

27. The Pentana (Risk Management Information System) is used to manage significant health and safety risks. Pentana 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. Risks that are currently being administered effectively through Pentana include Traffic Management at Billingsgate Market, Work at Height and Fire Safety at Central Criminal Court, and High-Risk Hazard Work Areas at the Barbican Centre.

Key Performance Indicators

28. 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.
29. In September 2019 the Health Safety and Wellbeing Committee took the opportunity to refresh and development / augmentation of health safety and wellbeing performance measures. A revised corporate health safety and wellbeing dashboard, with agreed performance measures reported at a set frequency, should help to drive performance (including statutory compliance) and facilitate positive behaviour change.

Health and Safety (Property)

30. The Property Health and Safety Team consists of five posts: A Health and Safety Manager, Fire Safety Advisor, Fire Compliance Advisor, Health and Safety Advisor (specialising in Asbestos and Water Safety) and Guildhall Health and Safety Advisor (covering Guildhall complex and specialising in event safety). The team has been instrumental in creating and negotiating new corporate policies and compliance standards that aim to deliver key safety and health objectives of the Corporate Plan. The team has been successful in informing and upskilling groups of managers and staff. Over the last 12-months there has been a heavy focus by the team on new Corporate contracts, supporting the City Corporation's major construction/ accommodation project, and building safety / fire compliance.

Health Safety and Wellbeing (People)

31. The Health Safety and Wellbeing team is based in Human Resources and consists of a Manager, Health Safety and Wellbeing advisor; an Apprentice joined the team in August 2019. The Health Safety and Wellbeing Strategy (People) (2018 – 2023) was revised and refreshed to align with the new Corporate Plan.
32. Everything we do supports the delivery of the Corporate Plan's **three strategic objectives** and we contribute through the Human Resources Business Plan to the **twelve corporate outcomes**, especially:
 - **People are safe and feel safe** (Outcome 1);
 - **People enjoy good health and wellbeing** (Outcome 2)
33. The approach is informed by our corporate outcomes. These have been themed as CitySafe and CityWell respectively and form the principal strands of our contribution to the HR Business Plan and Transformation Programme. They have six overarching sub-themes:
 - **Managing risk well:** Simplifying risk management, enabling innovation and facilitating radical ways of working

- **Keeping pace with change:** Anticipating change and tackling new and emerging health and safety challenges
- **Tackling work-related ill-health:** Developing the wellbeing of our workforce, reducing the stigma around mental ill-health, and providing a safe and healthy working environment
- **Acting together:** Developing active and visible leadership in line with our Corporate Values and promoting broader health and safety ownership
- **Sharing our successes:** Growing and nurturing our staff through excellent learning and development opportunities, and celebrating our successes
- **Working well together:** Engaging with others holistically to add value, share resources, embed good practices, and develop behaviours

Corporate and strategic implications

34. 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).
35. 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).
36. Fines are based on an organisation's 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. During the first two years this has certainly been the case, with multiple fines exceeding £1,000,000.
37. The number of Directors prosecuted for health and safety offences has increased significantly in recent years. Data confirm that the Health and Safety Executive (HSE) is displaying an increased zeal to prosecute the most senior individuals within organisations.

Horizon scanning / keeping pace with change

38. 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.
39. Amendments made to the Building Regulations 2010 can into force in December 2018 to limit the use of certain new materials on building over 18 meters which contain one or more dwellings. Recent government fire consultation has focused on buildings over 18 meters with residential accommodation. Once the consultation results have been reviewed, the government may move to implement legislation.

Mental health training and development / tackling work related ill-health

40. Mandatory mental health awareness training for managers was agreed at the Establishment Committee in 2018 and good progress is being made in this regard.
41. Mental Health First Aid (MHFA) training is analogous to physical first aid. Whilst not a legal requirement, one is more likely to meet someone suffering distress / suicidal thoughts than someone experiencing physical ill-health or injury requiring intervention. The City Corporation took the decision to train in-house Mental Health First Aid Instructors and roll-out an internal programme of accredited MHFA training across the corporation. To date over 100 MH First Aiders have been trained.

Collaboration

42. The Health Safety and Wellbeing Team hosted two expert led health and safety events in collaboration with external partners. In April 2019 a *Safety Services: Promoting Positive Approaches to Behaviour* was delivered alongside our specialist conflict management training provider. Around 100 delegates from the City Corporation and beyond participated. In July 2019 the City Corporation hosted the 4th London Work at Height Seminar to over 160 delegates. Other collaborations have included an internal seminar *Make Time for Mental Health* with our Staff Networks.

Current risk climate

43. Effective Health and Safety management enables innovation, growth and enhances productivity, as well as helping the City Corporation to achieve its strategic objectives. However, there are very few risks which when realised can have such potentially negative effects (as described above).
44. The Corporate Health and safety teams (Property and People) have been supporting a number of departments with fire and health and safety issues including the Central Criminal Court, Barbican, Guildhall School, Open Spaces and Housing (DCCS).
45. Since the last Health and Safety (CR09) Deep Dive (November 2018) there has been no health and safety enforcement action by the HSE. The HSE investigated a fatality at Hampstead Men's Pond to a member of public (June 2019) and concluded it was not "work-related".
46. The North London Open Spaces management team undertook a detailed internal investigation into pond fatality. The incident was notified to the HSE, and they subsequently undertook a robust investigation. This included interviews with staff and the swimming community. Documentation from the safety management system was also interrogated including site safety procedures, risk assessments, evidence of training and local monitoring and testing arrangements. The HSE has confirmed in writing that no further action is being taken against the City Corporation. Robust application of our safety management system has a 'protective' effect.

47. There were no prosecutions by the Fire and Rescue Service since the last Deep Dive.

Conclusion

48. There is no current indication that there will be significant changes to the UK's health and safety legislative framework after leaving the EU.
49. 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 as current resources allow.
50. Being able to demonstrate robustly the effectiveness of City Corporation's safety management system, especially at a local level to external scrutiny provides a high degree of assurance.
51. It may be appropriate to consider reducing the risk score for CR09 following confirmation that the HSE's investigation into the pond facility has been closed. Regardless, the risk climate should be carefully monitored, and this should dictate any changes (up or down) to the current risk scoring.

Appendices

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

Justin Tyas

Health Safety and Wellbeing Manager (People)

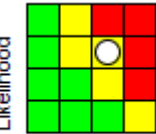
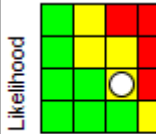
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H&S CR09 H&S risk

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Risk no, Title, Creation date, Owner	Risk Description (Cause, Event, Impact)	Current Risk Rating & Score		Risk Update and date of update	Target Risk Rating & Score		Target Date	Current Risk score change indicator
CR09 Health Safety and Wellbeing Risk (Management System) 22-Sep-2014 Chrissie Morgan	<p>Cause: Lack of management grip/attention to effective health and safety in the workplace, management and staff competency, poor supervision and guidance, and ineffective controls and monitoring / feedback systems.</p> <p>Event: Significant breach/non-compliance with Statutory regulations and/ or internal H&S policies and procedures by staff/managers whilst undertaking/delivery of City Corporation functions.</p> <p>Effect: Fatality or life-threatening illness / disease compromising the safety and wellbeing of service users, public or the workforce, potential enforcement action/financial penalties to City Corporation. Adverse effect on the delivery of the Corporate Plan: Especially Outcomes 1 & 2</p>	 <p>Likelihood</p> <p>Impact</p>	12	<ul style="list-style-type: none"> The new inspection programme initiated and now 80% progressed. Risk description re-scoped and description agreed at HSW Committee etc. Review of risk scoring competed. Target score reduce to 8. Updates completed. Back Care campaign in-progress and Suicide Awareness campaign completed with new guidance “Concerns About Suicide – Just Ask” launched draft Overseas Travel Policy for H&S going to Summit (23/10) following consultation with all Chief Officers. Heat wave and Safety Systems of Work Guidance in progress. <p>05 Nov 2019</p>	 <p>Likelihood</p> <p>Impact</p>	8	31-Dec-2019	Constant

Action no, Title,	Action description	Latest Note	Action owner	Latest Note Date	Due Date
CR09F Compliance audits and inspections 2018/19	Deliver a series of health and safety audits and compliance checks to provide corporate assurance that the organisation is being managed safely	CRO9F is 2018/19 is now at 100% and closed	Justin Tyas	03-Jan-2019	31-Dec-2018
CR09G Health and safety leadership training for Chief Officers and their reports	To deliver a programme of training sessions for Chief Officers and their reports	H&S leadership workshop for Town Clerk's has been rearranged to 21/3/2019 Completed	Justin Tyas	29-Mar-2019	31-Mar-2019
CR09H Workplace Wellbeing Action Plan	To implement and deliver a Workplace Wellbeing Action Plan	Plan agreed and is being monitored.	Justin Tyas	21-Aug-2018	31-Mar-2019
CR09I Policy and Guidance Review & Development	Working on a draft Lone Working and Preventing Violence Policy	Agreed by Establishment Committee 03 December 2018 Revision / update to Corporate Health Safety and Wellbeing Policy completed.	Justin Tyas	07-Dec-2018	31-Dec-2018
CR09J Compliance audits and inspections 2019/20	Deliver a series of health and safety audits and compliance checks to provide corporate assurance that the organisation is being managed safely	The new inspection programme initiated and now 80% progressed.	Sarah Blogg; Nikki Jago; Justin Tyas	05-Nov-2019	31-Dec-2019