

CORPORATE AFFAIRS AND AUDIT COMMITTEE

Date: Wednesday 6th April, 2022
Time: 3.30 pm
Venue: Council Chamber

AGENDA

1. Welcome and Evacuation Procedure
2. Apologies for Absence
3. Declarations of Interest
To receive any declarations of interest.
4. Boho X - draft findings and proposed management response 3 - 10
5. Performance and Risk Annual Assurance report 11 - 20
6. Business Continuity Annual Assurance report 21 - 30
7. Any other urgent items which in the opinion of the Chair, may be considered

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Tuesday 29 March 2022

MEMBERSHIP

Councillors B Hubbard (Chair), J Platt (Vice-Chair), T Higgins, C Hobson, T Mawston, D Rooney and C Wright

Assistance in accessing information

Should you have any queries on accessing the Agenda and associated information please contact Susan Lightwing, 01642 729712, susan_lightwing@middlesbrough.gov.uk

MIDDLESBROUGH COUNCIL	
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Report of:	Director of Legal and Governance Services (Monitoring Officer)
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Submitted to:	Corporate Affairs and Audit Committee, 6 April 2022
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Subject:	Boho X – draft findings from internal audit and proposed management response
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Summary

Proposed decision(s)

That the Committee:

- notes the findings of the draft internal audit report on the project management of Boho X and the proposed management responses; and
- considers whether it wishes to make further comment on the issues raised by the audit and the proposed actions.

Report for:	Key decision:	Confidential:	Is the report urgent?
Information	Not applicable	No	Not applicable

Contribution to delivery of the 2021-24 Strategic Plan

People	Place	Business
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The report sets out proposed actions to improve programme and project governance across the Council in the light of the findings of this audit, subject to further comment from the Committee.

Ward(s) affected

There is no direct impact on any ward from the recommendations of this report.

What is the purpose of this report?

1. Following discussions with the Chair and Vice Chair of Corporate Affairs and Audit Committee, and direction from the Committee at its meeting on 15 October 2020, the Director of Finance and Director of Legal and Governance Services commissioned an internal audit review of project management of the Boho X project. Group leaders were also consulted on the scope of the audit.

Why does this report require a Member decision?

2. As the internal audit was requested by members of Corporate Affairs and Audit Committee, it is appropriate for members to consider the summary draft findings and proposed management responses before finalisation of the audit report.

Report Background

Boho X

3. To be delivered by the end of 2022, Boho X will be specialist digital office space over two separate sites (Boho 8 and Boho 10) at St. Hilda's Enterprise Zone in the Middlehaven regeneration area of Middlesbrough, which has been designated by the Council as a focal point for the growth of digital and creative businesses in the town.
4. Boho X is jointly funded by the Tees Valley Combined Authority (TVCA) and this Council and at a revised estimated final cost of £21m, is the biggest single project within the Council's portfolio at the present time.
5. The plan for the building has seen one significant change since the start of the project. It was agreed by the Executive in March 2020 that Boho X would be a 20 storey office development with 100,000 square feet of floor space (plan A). In August 2020 the design of Boho X was reviewed and the downsizing of the building to six storey, 60,000 square feet development was subsequently initiated (plan B).
6. The project is the responsibility of the Regeneration and Culture Directorate. The original sponsor was the then Executive Director of Growth and Place, moving to the Head of Economic Growth on the former's compulsory redundancy.
7. The Council expects to let Boho X in its entirety for ten years in the near future.

Council policies on the planning and delivery of programmes and projects

8. All of the Council's activity must be delivered in line with the law and the rules established by its Constitution, including the member / officer protocol, delegated authorities, decision making procedures and standing orders. Where relevant, it must also comply with the conditions of external funding agreements.
9. In addition, the Council has a specific policy in respect of programme and project management, which is approved by the Executive and supported by a detailed programme and project management framework (PPMF) for officers working on such activities within the Council.

10. The purpose of the policy and the supporting PPMF is to ensure that an effective, consistent and joined-up approach to programme and project management across the organisation. Like all such governance processes, the PPMF runs a ‘three lines’ model to promote compliance, in which the first line is the project structure itself, the second a specialist business partnering function (in this case, the Portfolio Management Office, (PMO)) and the third internal audit.
11. The PPMF was first put in place during 2016 in response to concerns in respect of programmes and projects identified initially by its internal auditor and subsequently reflected in the external auditor’s value for money opinion on its 2014/15 statement of accounts, which were qualified in relation to project management, among other issues.
12. The Council has made significant improvements in programme and project management in the subsequent years, reflected in the following internal periodic audits:

Year	Audit title	Opinion
2018	Project Management Finance, Governance and Support – scope included the school improvement and Believe in Families programmes	Good Control
2019	Project Management Finance, Governance and Support – scope included the Community Bank and the Civic Campus fit out	Good Control

13. While elected members set organisational strategy, it should be noted that only officers develop and deliver programmes and projects in pursuit of that strategy. The role of members is restricted by the Constitution to either scrutinising or approving programme and project activity in line with agreed authorities and delegations, and being briefed accordingly in a timely fashion.
14. Elected members cannot instruct officers other than through the Council’s formal decision-making process – the implementation of decisions is the responsibility of officers and not members. It is not appropriate for any member to sponsor or otherwise lead projects or to fulfil any other project role, as this would represent a clear conflict of interest with their scrutiny or decision-making roles.

Internal audit

15. During 2020/21, in response to concerns from the Chair and Vice Chair of Corporate Affairs and Audit Committee, the committee and other parties, an internal audit of the project management of Boho X was jointly commissioned by the Director of Finance (Section 151 Officer) and the Director of Legal and Governance Services (Monitoring Officer).
16. The purpose of this audit was to provide assurance to management that procedures and controls within the system ensured that:
- the project has used and met the requirements of the established Project Management Framework in operation at the Council;
 - meetings and communications directing the design and development of the project were carried out in line with proper procedures and fully recorded
 - decisions relating to the project have been taken, recorded, published and communicated in line with the Council’s Constitution (including the scheme of delegation)

- key information relating to the project is available and has been retained to support decisions; and
- there are appropriate project governance arrangements in place including processes for managing project risk.

Key findings

17. The audit has now been completed and a draft report prepared for comment by management. The draft report has also been provided to the Committee under confidential terms. The auditor's key findings were that:

- the project was not always managed in line with the Council's Constitution, in that the Mayor of Middlesbrough held meetings with third party contractors on project direction without officers present, and without these being documented – while this arrangement was agreed by the former Executive Director of Growth and Place via email, it was not in their gift to do so and was contrary to the constitution and the PPMF;
- as the above meetings were not documented, there was not clear record of discussions and there appears to have been a perception by the third party contractor that the Mayor was making decisions and formal instructions for the project, while the Mayor does not perceive that he made those formal decisions. This may have led to decisions and design changes being made without appropriate input or transparency or being communicated efficiently;
- change control notices were not submitted, reviewed and authorised in line with the Council's PPMF as a result – key design changes were recorded in the (third party contractor) BCEGI decision log following meetings as being agreed the Mayor. They were not formally referred to the Project Sponsor and Directorate Portfolio Board as they should have been – instead there was an agreement that these would be relayed via the former Executive Director of Growth and Place, although no email evidence is available to support this had occurred;
- changes recorded in the BCEGI decision log included those items that BCEGI perceived as being authorised by the Mayor, and there was no officer involvement in these decisions, which resulted in changes to the project design and cost – as such, notwithstanding the agreement and direction of the former Executive Director of Growth and Place, decisions were not in line with the Council's constitution or PPMF;
- seven design changes outlined in the BCEGI change log between June and August 2020 (in which period there were no internal project board meetings) represent the change from plan A to plan B, and were perceived by BCEGI as authorised by the Mayor and recorded as such in their log – there is no evidence that these changes were attributable to COVID-19 as identified public communications and as such the decision-making on the change was not transparent. The Project Board minutes for September 2020 also records that the Mayor had instructed changes to the project;
- decisions relating to securing funding for Boho X and awarding key contractors have been taken, recorded, published and communicated appropriately, there is a clear record available of the abortive costs as a result of the design changes and an appropriate procurement process was followed for key contractors;
- an appropriate project risk register is in place that is reviewed and managed by the project manager, but not reviewed and managed within the internal project working group board meetings, and as such project risks may not be overseen appropriately and mitigated to an acceptable level; and

- there does not appear to be an effective culture of challenge in place across the project – while the Mayor acted outside of their expected roles and responsibilities, the process was agreed by the Executive Director of Growth and Place at the outset
- There was no evidence that the Mayor was advised that he could be perceived as exceeding his constitutional role in relation to the BOHO X project identified during the investigation. Standard Member training would not have included training on governance arrangements for operational project delivery as there is no role for members. Induction training does include information on the Officer / Member relationship and the split of responsibilities which had been provided to the Mayor.

18. As such, significant gaps, weaknesses or non-compliance were identified by the auditor, leading to an overall opinion of the controls in place at the time of the audit as providing only limited assurance.

19. The audit did not examine the project's adherence to the TVCA's funding conditions for Boho X, but for the purposes of this report it can be confirmed that to date the Council has fully complied with these and the TVCA signed-off the construction contract and specification reflecting 'plan B'.

Action taken to date

20. It is clear from the audit findings that the governance arrangements for BOHO X did not comply with the Council's Constitution or its PPMF and that these non-compliant arrangements were agreed at the outset by the former Executive Director of Growth and Place.

21. Such conscious non-compliance with corporate policy on the proper governance of projects represented a failure of leadership at a very senior management level, regardless of whether this arrangement was requested by the Mayor or an assumption was made that the Mayor wanted such an arrangement – in either instance the arrangements should not have been put in place.

22. The arrangements implemented could have had significant adverse impacts on the project, and equally importantly, could have resulted in an 'opt out' culture – when officers at a junior level see senior officers consciously disregarding policy, it increases the likelihood that they will become less diligent or act in a similar way, undermining good governance across the organisation.

23. As such, it is vital that the management response to this audit addresses the culture that allowed these arrangements to be put in place and persist, as well as necessary procedural changes.

24. The Mayor has now been advised by the Monitoring Officer not to meet with third party contractors or potential tenants on this or any other project without officers being present, and when attending with an officer, to be clear that it is the officers that are leading the discussion and only they have the authority to execute decisions.

25. The Director of Regeneration will now sponsor the Boho X project so that leadership of the Council's biggest project is reestablished at Chief Officer level.

26. The project's controls have been reviewed by the PMO and are now compliant with the Constitution and the PPMF.

Additional planned actions

27. Appendix 1 summarises the additional actions proposed by management to address these. These focus on ensuring that the issues identified in this audit are not present in other projects within the Directorate and strengthening the PPMF to address the issues raised, with associated training for members and officers.
28. In addition to the response to this audit, other actions will be undertaken to strengthen governance across the Council. These will be outlined in the forthcoming Annual Governance Statement to be considered by the Committee as part of the Statement of Accounts in April 2022. Relevant to this audit will be consideration of the robustness and subsequent tracking of the implementation of delegated authorities agreed for major projects.
29. The Committee is asked to consider whether it wishes to make further comment on the issues raised by the audit and the proposed actions.

What decision(s) are being asked for?

30. That the Committee:

- notes the findings of the draft internal audit report on the project management of Boho X and the proposed management response; and
- considers whether it wishes to make further comment on the issues raised by the audit and the proposed actions.

Why is this being recommended?

31. To improve programme and project governance across the Council in the light of the findings of this audit, subject to further comment from the Committee.

Other potential decisions and why these have not been recommended

32. Not applicable.

Impact(s) of recommended decision(s)

Legal

33. There are no legal implications from the internal audit or from the proposed management response.

Financial

34. There are no direct financial implications from the proposed management response.

Policy Framework

35. This report does not seek to amend the Council's policy framework.

Equality and Diversity

36. Not applicable.

Risk

37. The issues set out within this report are relevant to a number of risks within the Council's risk registers, including:

- failure to comply with statutory duties;
- failure to have adequate governance;
- failure of Boho X to deliver anticipated benefits and financial returns; and
- corporate procurement policies are not adhered to.

38. The report identifies a range of prudent actions that will be taken to impact positively on these risks.

Actions to be taken to implement the decision(s)

39. Following consideration by the Committee, the draft audit report will be finalised, including responsible officers and timescales. The final report will be circulated to Committee on a confidential basis and progress on implementation tracked by LMT monthly through scheduled corporate performance reviews.

Appendices

1 Draft internal audit findings and proposed management responses

Background papers

- Project Management – Boho 10, Middlesbrough Council Draft Internal Audit Report 2020/21 (Confidential)
- BOHO X – Governance and Project Management Arrangements, Corporate Affairs and Audit Committee – 15 October 2020.
- BOHO X, Ad Hoc Scrutiny Panel – 23 November 2020.

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Appendix 1: Draft internal audit findings and proposed management responses

Issue / control weakness	Risk	Priority	Proposed management response(s)
The project was not always managed in line with the Council's constitution and the project management framework.	The Mayor exceeds their limitation of power in decision-making on the project.	1	Update PPMF to further clarify roles of elected members within programmes and projects.
			Deliver briefing for the Executive on the revised PPMF.
			Deliver all member training on the revised PPMF.
			Deliver refresher training on the revised PPMF for all officers working on projects.
			Monitoring Officer to write formally to all members and WLMT to reiterate guidance.
			WLMT will be required to formally accept and undertake to comply with the PPMF.
			New ways for officers to raise concerns regarding governance concerns will be developed.
			Commission further risk-based internal audit of governance of Regeneration projects.
			Commission internal audit of MDC and Towns Fund governance arrangements.
Mayoral meeting minutes are not available.	Key decisions and design changes may not have appropriate input and are not communicated efficiently. The lack of transparent decision making may negatively affect the success and timeliness of project delivery.	2	Revised PPMF to require single decision logs for programmes and projects.
			Revised PPMF to include standardised project workbook, including standard log.
			PMO to implement project health check schedule for MBC portfolio.
Change control notices are not submitted, reviewed and authorised in line with the Council's Project Management Framework.	Changes to the project are not authorised appropriately or effectively communicated to officers managing the project. Actions may be taken on incomplete or informal information.	2	Revised PPMF to include standardised project workbook, including change control.
			Standard guidance to be issued to contractors re: decision making / change controls.
There is inconsistency in the decision-making process and communication of design changes resulting in the transition from plan A to plan B of the project.	Decisions are made without appropriate input and challenge from all applicable stakeholders, resulting in ineffective management of the project.	2	Revised PPMF to require all decisions to be taken at the relevant MBC board.
			Revised PPMF to include standardised project workbook, including board agenda.
			Revised PPMF to require all decisions to be communicated to project teams by PM.
			Build challenging skills into corporate staff training programme.
Project risks are not reviewed and managed within the internal project working group board meetings.	Project risks are not overseen appropriately and mitigated to an acceptable level.	3	Revised PPMF to require all risks to be reviewed at the relevant MBC board.

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Report of:	Director of Legal and Governance Services (Monitoring Officer)
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Submitted to:	Corporate Affairs and Audit Committee, 6 April 2022
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Subject:	Performance and Risk Management: Annual Assurance Report 2021
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Summary

Proposed decision(s)

That the Committee notes the arrangements in place to govern performance and risk management within the Council, progress in the past year, and plans to further strengthen those arrangements.

Report for:	Key decision:	Confidential:	Is the report urgent?
Information	Not applicable	No	Not applicable

Contribution to delivery of the 2020-23 Strategic Plan

People	Place	Business
Effective performance and risk management supports the achievement of all strategic priorities set out within the Council’s Strategic Plan 2021-24.		

Ward(s) affected

The proposals have no direct impact on wards in Middlesbrough.

What is the purpose of this report?

1. The purpose of this report is to outline the Council's approach to performance and risk management, to summarise activity in the past year and planned activity for 2022 to provide the Committee with assurance that the Council has robust arrangements in place for these disciplines.

Why does this report require a Member decision?

2. To support the Committee in discharging its remit to seek assurance that the Council has good corporate governance practices, which includes performance, programme and project and risk management.

Background

3. The Council's approach to these disciplines is articulated within the following policies:
 - Performance Management Policy;
 - Programme and Project Management Policy; and
 - Risk and Opportunity Management Policy.
4. In February 2020, revised versions of these policies were approved by the Executive to maximise their impact on the Council's strategic aims and priorities, as set out within the Strategic Plan. The revisions better aligned and integrate the process underpinning these policies and improved their relationship with financial management procedures, and aimed to better exploit the solutions provided by the Council's digital and information strategies to promote real-time and more effective management. These policies were further embedded during 2021.

Performance management approach

5. Full Council approved a Strategic Plan for the period 2021-24 on 24 February 2021, setting out nine strategic priorities for this period in the light of COVID-19 and other external factors.
6. At its meeting of 11 May 2021, the Executive agreed an associated set of outcome measures linked to these priorities and a supporting workplan to deliver sustained improvement up to and beyond 2024. This is the first time such a document had been approved by the Executive, which under the Council's Scheme of Delegation has collective responsibility for corporate strategic performance, together with associated action. A Strategy Delivery Manager was appointed to programme-manage the Strategic Plan Workplan.
7. Significant work was also undertaken in the year to improve Directorate and strategic performance management, with the implementation of a monthly performance review cycle using an integrated performance dashboard drawn from a range of feeder systems which record different aspects of corporate performance. Screenshots from this dashboard are at Appendix 1 for reference.
8. The monthly performance cycle (based on a four-week month) is as follows:

Week 1 Feeder systems updated by responsible officers

Week 2 Directorate Performance Reviews using dashboard

Week 3 Feeder systems further updated following Directorate Performance Reviews

Week 4 LMT Performance Review using summary slide pack

9. The Directorate and LMT Performance Reviews subsume all previous similar meetings, such as Directorate Programme Boards, though these can still be called where necessary, for example to approve key gateway documents.
10. Directorate and LMT Performance Reviews consider the following on a 'by exception' basis, with only matters considered to require discussion or steer raised:
 - actions agreed by the Executive (including responses to scrutiny reports);
 - the Strategic Plan Workplan (both in terms of activity and outcomes);
 - Directorate priorities;
 - the Council's portfolio of programmes and projects;
 - compliance indicators (e.g. completion of audit actions); and
 - Directorate and strategic risk registers.
11. Where matters are not raised it is assumed that any delays are immaterial and will be 'course-corrected' at a local level by responsible Directorates.
12. The output from these sessions is reflected in a revised quarterly update to the Executive and Overview and Scrutiny Board, broadening the content of these reports from the past focus on the Strategic Plan and Strategic Risk Register (SRR) and covering in addition progress on those other matters outlined at paragraph 10.
13. While COVID-19 has continued to be disruptive in terms of planned performance, a number of significant achievements have been made in line with the Council's Strategic Plan Workplan, and these have been reported to the Executive and Overview and Scrutiny Board on a quarterly basis.
14. The above-described changes have served to significantly improve focus upon and strengthen delivery of the Strategic Plan. The key area of improvement relates to identifying, articulating and reporting upon targets for the measures of success set out in the Strategic Plan. This is necessary so that the Council can be assured that activity being delivered with the Strategic Plan Workplan is having a sufficiently positive effect to deliver the strategic objectives set out within the Strategic Plan.
15. While a refresh of the Strategic Plan has been deferred in 2022/23 due to the need to consider the implications of several key White Papers over the past year (as reported to full Council on 30 March 2022), the issue of targeting will be addressed in a refresh of the Strategic Plan Workplan, to be considered by the Executive in April 2022.
16. During the past 12 months there has again been a strong focus on improving the use of performance data within children's services and embedding a strong performance management culture within the service, which have been recognised and commended by the Government-appointed Commissioner and the Department for Education.
17. LMT will continue to consider and monitor plans to expedite the roll-out of approaches and tools developed within Children's Services across the wider organisation during 2022/23.

Programme and project management approach

18. The Programme and Project Management (PPM) policy and its underpinning framework provide a standardised approach to the governance of programmes and projects, including standard documentation.
19. Since the introduction of this policy in 2015, the Council's approach to PPM has matured and a number of improvements have been identified and implemented via the Portfolio Management Office (PMO).
20. All projects within the Council's portfolio continue to be connected to overarching programmes and portfolios wherever possible to clearly articulate their contribution.
21. At the time of writing there are projects in the portfolio that are being managed under the PPM framework. These projects are supported and monitored by the PMO and are reported by exception to the new monthly Directorate and Leadership Team performance review meetings described earlier in the report and in the quarterly reports to members.
22. A number of changes made to the PPM framework in 2020/21 in respect of core documentation and the associated support structure began to be embedded throughout 2021/22 as new projects were initiated. These include:
 - a specific and scalable business case document to improve transparency of the justification for programmes and projects;
 - a stronger emphasis on business change management to support service transformation programmes and projects;
 - implementation of a social value model to strengthen the integrity of projects focused on social (rather than simply financial benefits) and to better demonstrate social return on investment; and
 - delivery of a project management masterclass for programme and project managers in the use of the framework and governance arrangements required.
23. The compliance of programmes and projects with the PPM framework is also assessed periodically by the Council's internal auditor, Veritau, either through a scheduled audit or at the request of this Committee, statutory or other senior officers.
24. In February 2022, Veritau completed an audit of the BOHO X project, which is the subject of a separate report to this meeting of the Committee, and found that the project was not always managed in line with the Council's Constitution and the PPM framework. Proposed actions to address the issues found by the auditor are set out within that report for information and will be implemented during 2022.
25. In response to the auditor's findings, the PMO reviewed the Council's portfolio in detail to provide greater assurance of compliance with the current version of the PPM framework.
26. This work identified issues with the recording and management of controls within several projects that have now been amended. It was also noted that some projects had proceeded to delivery stage apparently without prior approval of a business case by the appropriate body of the Council, as is required by the PPM Policy. However in

such cases an equivalent process to ensure value for money had been undertaken e.g. financial assessment signed off by the Section 151 Officer.

27. To address these issues, the PPM framework has been updated to emphasise:
- the process for initiating a project and the implementation of appropriate governance arrangements;
 - the requirement that all projects must be supported by a fully justified business case before any approval or funding (internal or external) can be sought; and
 - the roles and responsibilities of those involved in the governance, direction and delivery of projects.
28. In addition, the PMO has also developed and introduced a mandatory and standardised project management workbook to support the recording and management of project controls to be reviewed at project board meetings, prior to the submission of monthly highlight reports.
29. Going forward, a project health check toolkit is also being developed and a schedule of reviews by the PMO will be implemented to reinforce and improve compliance with the PPM framework and ensure the robust management of project controls.

Risk management approach

30. During 2020 the Council's risk appetite was refreshed reviewed and revised to bring it in line with the Council's current financial standing so that risks are being captured and scored in line with this. All risk management documentation was also reviewed and updated to reflect these changes. On review, no changes were made to the Council's risk appetite during 2021.
31. The Council uses risk registers to manage the various risks it identifies. The overarching risk register (the Strategic Risk Register) captures the most significant risks the organisation is exposed to that could impact on its ability to deliver the strategic priorities outlined in the Strategic Plan.
32. The Strategic Risk Register is underpinned by departmental level risk registers. Within project and programmes, risks are captured through the use of standardised project documentation, which includes risk registers. There are processes in place to ensure risks are considered either as they are managed during business-as-usual activity or throughout the life of a project and that they are escalated and de-escalated as appropriate.
33. A summary of the Strategic Risk Register is considered every three months by the Executive as part of a report on performance against delivery of the Strategic Plan and other key performance measures, with the same report considered by Overview and Scrutiny Board. A summary of the Strategic Risk Register at Quarter Three 2021/22 is at Appendix 2 for reference.
34. The status of risks are reported by exception to the new monthly Directorate and Leadership Team performance review meetings described earlier in the report and in the quarterly reports to members.

35. The Council's risk management arrangements were audited during 2020, receiving an opinion of *Substantial Assurance*. A Risk Management Improvement Plan was first developed in 2017/18 and is refreshed on an annual basis, focusing on:
- risk identification and monitoring;
 - management processes; and
 - communication and training.
36. The key improvement activity undertaken during 2021/22 was a whole scale review of risk mitigations within the Council's risk registers by Heads of Service, with changes made where appropriate to ensure that positive action is being taken where appropriate to reduce risk where the current score is higher than the target score. This led to further work to amend the Council's risk system to state more clearly the treatment currently being applied to each risk e.g. 'tolerate'.
37. Work for the coming year includes a review of how the Council presents strategic risk, how project risks are captured within the Council's risk system and a review of resourcing of risk management support.
38. The corporate Risk Management Group continues to meet on a quarterly basis to monitor the implementation of the risk management improvement plan and to identify new and emerging risks to the organisation, reporting to the newly established Corporate Governance Board by exception.

What decision(s) are being asked for?

39. That the Committee notes the arrangements in place to manage performance and risk management within the Council, progress in the past year, and plans to further strengthen those arrangements.

Why is this being recommended?

40. To support the Committee in discharging its responsibility in relation to corporate governance, including performance and risk management.

Other potential decisions and why these have not been recommended

41. Not applicable.

Impact(s) of recommended decision(s)

Legal

42. The proposed activity is consistent with and will promote the achievement of the Council's legal duty to achieve Best Value.

Financial

43. It is anticipated that all activities set out in this report are achievable within existing and planned budgets.

Policy Framework

44. Current and planned activity outlined is consistent with the direction of travel set out in the 'Business' section of the Strategic Plan, so this report does not seek to vary the Council's Policy Framework.

Equality and Diversity

45. Not applicable.

Risk

46. The processes set out within this report supports work to mitigate the risk of the Council not having adequate governance processes in place to ensure that compliance is in place with all relevant legislation (Risk Register No O8-054).

Actions to be taken to implement the decision(s)

47. The activity outlined in the main body of the report will result in continued improvements in the Council's performance and risk management arrangements, with progress reported to the corporate Risk Management Group and Corporate Governance Board on a quarterly basis.

Appendices

- 1 Screenshots from Directorate Performance Dashboards
- 2 Summary Strategic Risk Register at Quarter Three 2021/22

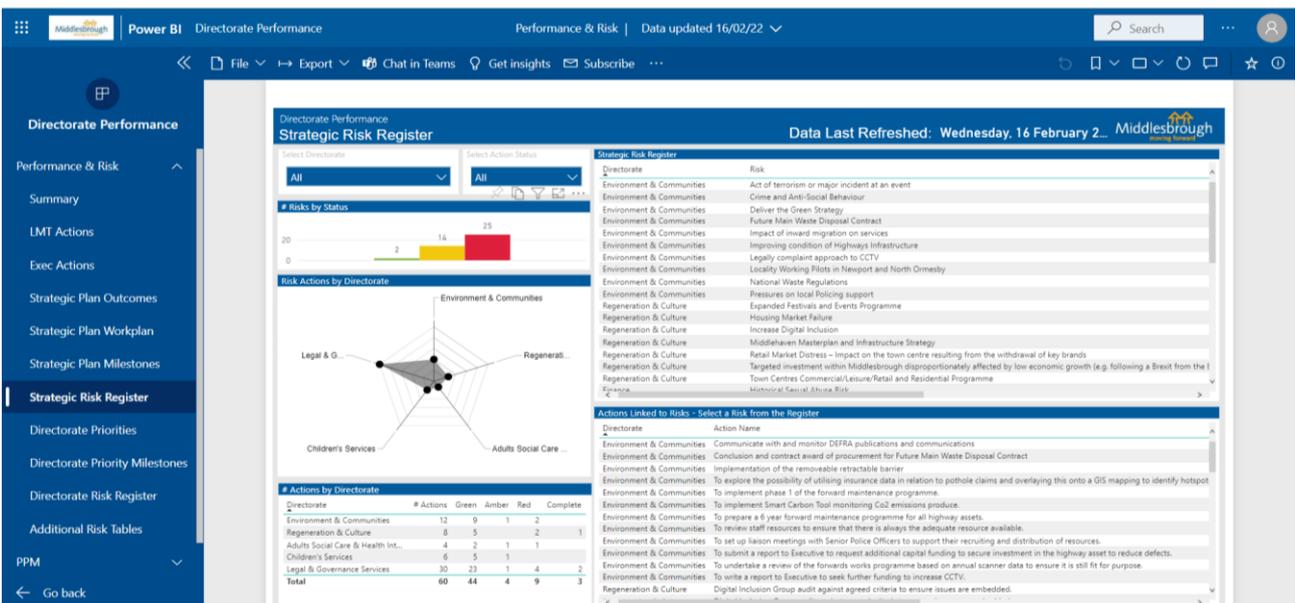
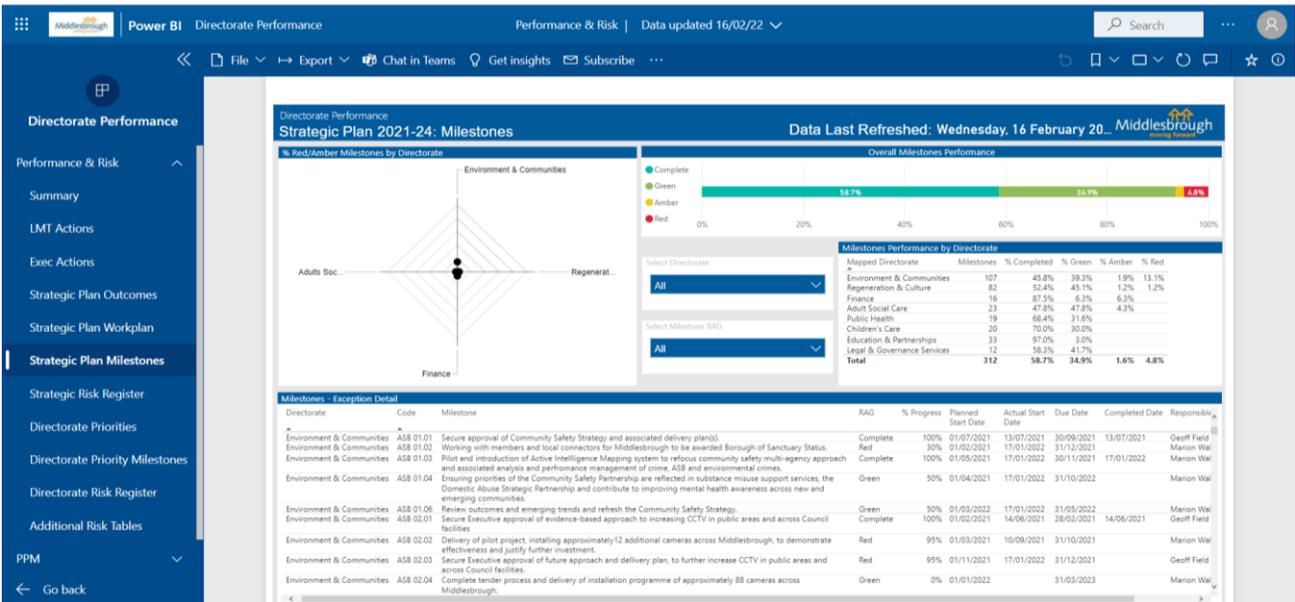
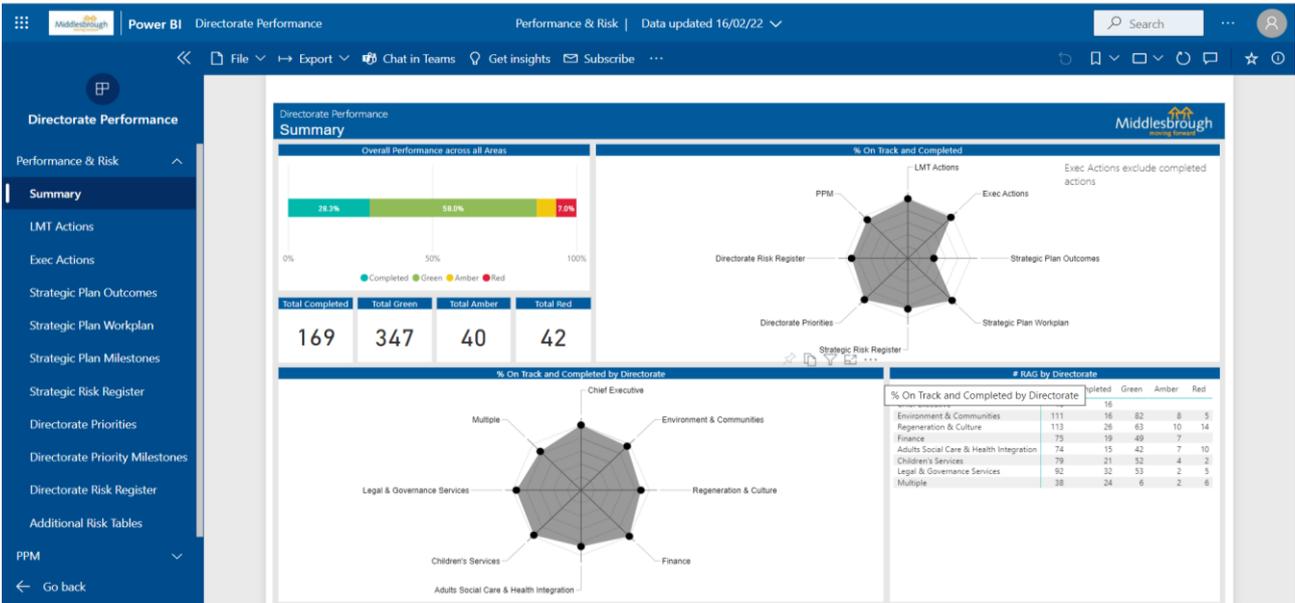
Background papers

26/07/18	Corporate Affairs and Audit Committee	Annual Assurance Report: Risk
06/06/19	Corporate Affairs and Audit Committee	PMO Six monthly report
25/07/19	Corporate Affairs and Audit Committee	Annual Assurance Report: Risk
04/02/21	Corporate Affairs and Audit Committee	Performance and Risk Management: Annual Assurance Report 2020

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Appendix 1: Screenshots from Directorate Performance Dashboard



Appendix 2: Summary Strategic Risk Register: Status at Quarter Three 2021/22

The table below sets out risks to the achievement of the Council's strategic priorities at Quarter Three 2021/22 in order of severity, with impacts ranging from insignificant to extreme, and likelihood ranging from rare to almost certain to happen.

In line with its Risk and Opportunity Management Policy, the Council aims (where possible) to manage down High risks to the lowest practicable level immediately and Medium risks to the lowest practicable level within three months.

Risk Level	Risk	Likelihood	Impact	Trend
High	Failure to control expenditure within Children's Services (MFTP pressure).	Likely	Extreme	➔
High	Local uptake of the C19 vaccine is poor resulting in increased transmission	Likely	Extreme	➔
High	Insufficient funding available to meet demand / costs associated with the Health and Social Care Bill	Likely	Extreme	➔
High	Retail market distress impacting Middlesbrough town centre.	Almost Certain	Major	➔
High	Insufficient funding to meet increased expenditure that might be incurred from increased demand as a result of COVID-19 (MFTP pressure).	Possible	Extreme	➔
High	Failure to have a legally compliant approach to CCTV	Possible	Extreme	➔
High	Breach of data rights due to untimely response to information requests.	Possible	Major	➔
High	Insufficient year 7 school places available to meet demand over the next 5 years	Possible	Major	➔
High	High residential voids / low sale values within Middlesbrough.	Possible	Major	➔
High	Historical investigations requiring changes to social work practice.	Possible	Major	➔
High	New historic child abuse claims.	Possible	Major	➔
High	Failure to maintain adequate corporate governance.	Possible	Major	➔
High	Failure to align operations and culture within strategic objectives.	Possible	Major	➔
High	Decline in new housebuilding impact on Council income.	Possible	Major	➔

Risk Level	Risk	Likelihood	Impact	Trend
High	External factors (e.g. Brexit, COVID-19) impacting Middlesbrough's economy.	Possible	Major	➔
High	Future waste disposal contract costs (MTFP pressure).	Possible	Major	➔
High	Failure to adequately plan for new COVID-19 wave or subsequent pandemics.	Unlikely	Extreme	➔
High	Disruption from national / local elections.	Likely	Moderate	➔
Medium	UK / EU Trade and Security Deal adversely affecting Council operations.	Unlikely	Major	➔
Medium	Failure to develop effective partnerships.	Unlikely	Major	➔
Medium	National Waste Review (MTFP pressure).	Unlikely	Major	➔
Medium	Reduction in frontline policing impacting on crime / community resilience.	Possible	Moderate	➔
Medium	Failure to recruit and / or retain key staff.	Possible	Moderate	➔
Medium	Limited or no partnership involvement due to COVID-19 with the Children's Service Safeguarding Improvement Plan.	Possible	Moderate	➔
Medium	Terrorist incident (reflects National Threat Level).	Rare	Extreme	➔
Medium	Failure to adapt service delivery to COVID-19 Secure guidelines.	Rare	Extreme	➔
Medium	Poor skills profile of school leavers.	Unlikely	Moderate	➔
Medium	Inward migration increasing demand for services.	Unlikely	Moderate	➔

MIDDLESBROUGH COUNCIL	
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Report of:	Director of Legal and Governance Services (Monitoring Officer)
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Submitted to:	Corporate Audit and Affairs Committee, 6 April 2022
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Subject:	Business Continuity Management: Annual Assurance Report 2021
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Summary

Proposed decision(s)

That the Committee notes the arrangements in place to manage business continuity within the Council, progress within the last year, and plans to further strengthen those arrangements.

Report for:	Key decision:	Confidential:	Is the report urgent?
Information	No	No	No

Contribution to delivery of the 2021-24 Strategic Plan

People	Place	Business
Effective Business Continuity Planning will ensure the Council is able to recover and maintain critical services that could be affected by an interruption event.		

Ward(s) affected

None.

What is the purpose of this report?

1. The purpose of this report is to outline the Council's approach to business continuity management, including testing and summarise activity in the past year and planned activity for 2022, in order to provide the Committee with assurance that the Council has robust arrangements in place, as required by the Civil Contingencies Act 2004.

Why does this report require a Member decision?

2. To support the Committee in discharging its remit to seek assurance that the Council has good corporate governance practices, which includes business continuity management.

Report Background

3. The Council has a duty under the Civil Contingencies Act 2004 to develop and maintain business continuity plans to enable continued delivery of 'business critical functions' during a 'business interruption' event.
4. Business continuity planning is separate to emergency planning, which sets out how the Council responds to emergency incidents that impact on residents and businesses, though there will be times where the two disciplines interrelate.

The Council's approach

5. The Council's Corporate Business Continuity Plan defines critical functions as those which, if interrupted could result in:
 - risk of serious injury;
 - risk of death;
 - massive financial losses; or
 - significant damage to the Council's reputation.
6. The Council will consider activating its business continuity plans if there is a business interruption event that:
 - is likely to last for more than half a working day;
 - affects a vulnerable group of service users;
 - impacts on the delivery of key critical activities;
 - restricts access to one of the key council buildings;
 - could generate significant damage to the Council's reputation; or
 - is highly likely to escalate into one of the above categories.
7. The Council has the following plans in place to respond to the variety of events that could occur:
 - the Corporate Business Continuity plan;
 - supporting Departmental Business Continuity plans;
 - Relocation Plan;
 - ICT Disaster Recovery Plan.
 - Fuel Plan;

- Coronavirus Pandemic Plan; and
 - Flu Pandemic Plan.
8. The Council does not publish its business continuity plans as they outline sensitive information around its critical functions and their recovery that could be misused, and contain personal information relating to employees that have agreed to share personal contact details to enable the Council to get in touch with them quickly in the event of an incident. Therefore the paragraphs below outline the content of the Council's plans only in broad terms.
 9. The **Corporate Business Continuity Plan** is the overarching plan for the organisation. It sets out the structure used to identify and prioritise critical functions; mechanisms for enacting the plan; how all plans are maintained, tested and reviewed; and policies and procedures in place to support effective business continuity planning.
 10. Supporting **Departmental Business Continuity Plans** set out detailed recovery arrangements for each critical function or activity, by Directorate of the Council, outlining information on buildings used to deliver the function or activity, staff information, key equipment and supplies, key records, ICT systems and other key contacts.
 11. The **Relocation Plan** sets out how critical functions / activity would be relocated to other buildings within the Council's estate or employees sent home to work using agile working solutions, if one or more buildings became inaccessible.
 12. The Council's approach is, in the main, not to write numerous plans for risks to critical functions. The ICT Disaster Recovery Plan, Fuel Plan and Coronavirus and Flu Pandemic Plans are exceptions to this rule, created in response to specific risks that have faced local authorities and the scale of the interruption that such events have and could cause.
 13. The **ICT Disaster Recovery Plan** focuses on maintaining ICT for business critical functions, highlighting those applications which are hosted externally, and any services supported by the Council's key partners.
 14. The **Fuel Plan** outlines how the Council would respond to a fuel shortages to ensure business critical staff are able to continue to do their work. This plan was created when there was a significant risk of a national fuel strike and is not normally a part of the annual review schedule. However due to the possible increased risk of disruption to transport networks following the UK's exit from the EU, the plan was updated in the year to reflect new ways of working and any new business critical services, and has been reinstated into the schedule for reviewing and updating.
 15. The **Coronavirus Pandemic Plan** was newly created in 2020, capturing the learning from the first wave of the COVID-19 pandemic. The Council's response to the initial wave used existing emergency plans and the Flu Pandemic Plan. However, in line with the national policy developments, it was agreed that a separate plan would be developed given the differences between novel coronaviruses and influenza and the required responses to each. The plan is structured by phase of response, pandemic preparedness, response, outbreak control, recovery and review, with each phase setting out the required processes and procedures along with supporting documentation utilised.

16. The Coronavirus Pandemic Plan is kept under regular review as the national and local pandemic response continues. The lessons learned action plan from COVID-19 in last year's annual report to the Committee and an update on this is attached at Appendix 1, with all actions now completed.
17. The **Flu Pandemic Plan** was created a number of years ago in response to the increased risk of Flu Pandemic at that time and outlines how the Council would prioritise certain services and change operating practices to enable to be able to continue to deliver critical functions in the event of a flu pandemic. This plan has been rewritten to align with the structure of the Coronavirus Plan has been reviewed and refreshed in line with the latest national guidance.

Plan testing

18. The Council tests its plans at least once every 12 months, or produces a lessons learned report if a live incident has occurred during the past year. As such, due to COVID-19 a test was not undertaken in 2021. The opportunity has also been taken to identify lessons learned from the recent lockdown of several council buildings in response to a reported threat.

Review schedule

19. In a normal planning cycle, business continuity plans are updated every six months, and reviewed on an annual basis (May and November) with the scale of the review dependent on the level of organisational change that has occurred in the intervening period. In some years this means that only minor updates (e.g. contact details) are required, in others fundamental reviews will be required to reflect changes to the Council's structure or other significant developments e.g. where services have been outsourced, or brought back in house.
20. As part of this review there was an increased focus on the robustness of plans in relation to the potential for a cyber-attack. The lessons learned from the cyber-attack on Redcar and Cleveland Borough Council were reviewed and plans updated accordingly. Battleboxes are also to be pulled together, and will include key documents and templates should an incident of this type should occur which will be held offsite and returned to ensure business critical services can still function until systems are restored.

Improvement plan for 2021/22 – update

21. A Business Continuity Improvement Plan was developed in 2021/22, covering training, documentation, communication, equipment and location arrangements. Progress on this plan is reported to Risk Management Group on a quarterly basis and is set out below.

Training

22. A full Disaster Recovery test exercise has been undertaken on each of the Council's data centres (DC1 – July 2021 and DC2 – October 2021) which involved testing the resilience of the generators, Uninterrupted Power Supply (UPS) systems and also environmental (e.g. fire suppression) systems. This test ensured that in the event of a

major power outage within the town or the loss of one of the data centres entirely, the other data centre will continue to support the Council's business critical applications, with no changes required.

Documentation

23. An update and full review of Directorate Business Continuity Plans has been undertaken within the year to reflect changes in the service, location and employee details.
24. Particular attention has been paid in these updates to the Council's preparedness for cyber-attack, as outlined elsewhere in the report. In addition, call cascades were expanded to cover all services, rather than just business critical functions, as previously.
25. With the easing of COVID-19 restrictions late last year and Government guidance advising that offices could be reoccupied, the Council produced a Reoccupation Plan. Reoccupation was planned to be implemented in three phases so employees could become accustomed to being back in the office and to limit numbers in the event of outbreaks. All three phases of the reoccupation were complete by the early December 2021, however shortly afterwards work from home guidance was reissued in light of the Omicron variant. At the time of writing, offices are being reoccupied with the majority of office based staff continuing to work using a hybrid approach.

Communication

26. A Business Continuity and Emergency Planning mapping portal has been built in the Council's mapping software, including flood plains, gritting routes, schools, Council buildings, care homes etc. The next steps in the development of this work are to identify any further data sources required such as critical infrastructure and COMAH sites. Once completed, access will be provided to the relevant individuals so use in emergency and / or business continuity incidents.

Business Continuity activities for 2022/23

27. During 2022/23, further work as set out below will be undertaken to build on progress made within the previous improvement plan as part of the Council's commitment to continual improvement in business continuity planning.

Training

- Produce a scenario and undertake a business continuity exercise to test the effectiveness of plans.
- Undertake a cyber-attack exercise on a key system as the next ICT Disaster Recovery Plan exercise to test its effectiveness.
- Increase the number of trained loggists to support Business Continuity responses in an invocation.

Documentation

- Undertake a full review and update of all business continuity plans to ensure they remain fit for purpose.

- Take the learning from the ICT cyber-attack exercise and include any recommendations in the Business Continuity Improvement Plan.
- Battleboxes to be created by business-critical services to enable service delivery to be maintained in the event of a cyber-attack.
- Revision of plans to reflect occupation of the new main offices this year.
- Take learning from the lockdown incident to set out how incidents should be managed in a hybrid model where a proportion of the response team may be based in their own homes.

Communication

- Call cascade trees in place but need to ensure that this form of communication is maintained across the organisation.
- Communications Plan for BC to be enhanced to cover communications in the absence of ICT system.

What decision(s) are being asked for?

28. That the Committee notes the arrangements in place to manage business continuity within the Council, progress within the last year, and plans to further strengthen those arrangements.

Why is this being recommended?

29. To support the Committee to discharge its responsibility to maintain an overview of corporate governance within the Council, which includes business continuity management.

Other potential decisions and why these have not been recommended

30. Alternative models for delivery of business continuity arrangements are available (e.g. liver testing), however they would require significantly increased resources to be put in place.

Impact(s) of recommended decision(s)

Legal

31. Business continuity is a part of corporate governance, and the Council has a legal duty to ensure arrangements comply with the requirements of the Civil Contingencies Act 2004.

Financial

32. There are no new direct financial consideration in relation to business continuity management as a result of this report. By having robust plans in place, the Council will be better placed to mitigate financial impacts from any interruption event.

Policy Framework

33. This report does not seek to amend the Council's Policy Framework.

Equality and Diversity

34. There are no direct implications from this report on equality and diversity.

Risk

35. Business continuity management positively impacts on the following risks within the Council's risk registers:

- risk of the Council not having adequate governance processes in place to ensure that compliance is in place with all relevant legislation (O8-054).
- should a large scale incident occur then the Council must ensure it has suitably robust plans in place which will allow business critical services to continue (O8-052); and
- that these are tested on a regular basis to ensure they are fit for purpose and they allow for a diversion of resources if required (O8-037).

Actions to be taken to implement the decision(s)

36. Following endorsement of the Council's approach actions will be taken during 2022/23 to further strengthen business continuity management, as outlined in the report.

Appendices

1 COVID -19 Lessons Learned Action Plan – progress update

Background papers

Body	Report title	Date
Corporate Affairs and Audit Committee	Business Continuity – Annual Assurance Report	4 th February 2021
Corporate Affairs and Audit Committee	Business Continuity – Annual Assurance Report	19 th December 2019
Corporate Affairs and Audit Committee	Business Continuity – Annual Assurance Report	6 th December 2018

Contact: Heather Pearce, Risk Business Partner
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Appendix 1 – COVID -19 Lessons Learned Action Plan – progress update

Date raised / occurred	Incident / issue	Was there a warning Indicator Y / N?	Lesson learned	Action required	Owner	Target date	Status
01/05/2020	Review of Council's COVID response and recovery in preparation for Executive report, identified that a formal decision log had not been maintained in line with the Flu Pandemic Policy although most details required by the decision log were captured. Standard log was shared but not used.	Y	Process used (meeting logs) wasn't a comprehensive log of all decisions, only those within meetings - resulted in not having a full historic record of what was recorded and when. Person used to facilitate response structure was not familiar with plans. Needs including in future training events and communications around business continuity if the decision is that they maintain that co-ordinator role.	Revise the current standard log and supporting plan to pick up changes made by the logger where they added value and develop a revised procedure note to give guidance to future loggers to ensure all required information is captured. Refresh loggist training with nominated loggists. Revise loggists to use more senior officers.	AM Johnstone	30/09/2020	Completed
01/03/2020	Decision log co-ordinator replaced by more senior officer, mid-way through response to Pandemic. Whilst this change was more effective in coordination of response, processes were created which was a variance from Business Continuity processes.	Y	Loggist had needed support in the test environment. The 2 officers who did this were on leave / sick. Improve loggist guidance and identify more senior officer to undertake this role and deliver the loggist training with them.	Revise pre-identified loggist in plans and make them aware of the guidance in place for the loggist role.	AM Johnstone	01/04/2021	Completed
16/03/2020	The Business Continuity and Flu Pandemic Plan had an expectation of more separation between business continuity and emergency response functions. The Command structure put in place varied from this, though worked well.	N	The revised structure should be reflected as a revised approach in standard operating procedure going forward for flu / corona virus pandemic planning.	Flu Pandemic plan to be revised to reflect the structure used.	AM Johnstone	01/04/2021	Completed
02/06/2020	Safety plans for children that were required by government for CIN children were not shared with all partners, social workers misunderstood the emphasis on sharing with schools as only share with schools in some cases	N	Ensure clearer communications going forward and reiterate expectations.	Communications to social workers on this issue.	S Williams	N/A	Completed

Date raised / occurred	Incident / issue	Was there a warning Indicator Y / N?	Lesson learned	Action required	Owner	Target date	Status
01/06/2020	there was no process in place for capturing impacts of the pandemic on services across the organisation within one form	Y	A sit rep template was put in place to capture impacts across the organisation on a daily basis using a simple RAG tool to highlight areas of vulnerability. This should be captured within future planning documents for business continuity / flu pandemic events so that it can be quickly updated and implemented.	embed the sit rep template within the corporate Business Continuity plan and the Flu Pandemic Plan	H Pearce	30/09/2020	Completed
10/03/2020	The council had in place a Business Continuity Plan for a flu pandemic rather than a corona type virus	Y	there had been several outbreaks of a corona type virus in recent years (SARs, MERs) Consider either revising the flu pandemic plan to be more generic and plan for a range of zoonic and non-zoonic diseases or create a separate corona virus pandemic plan	Create a Business Continuity plan for a coronavirus-based pandemic and reflect all actions applicable to the Flu Pandemic Plan in that document too	H Pearce	30/09/2020	Completed
01/07/2020	The task of managing and coordinating the range of response and recovery groups was underestimated.	N	Additional resource should be identified within the Flu Pandemic Plan and the Corona virus plan to improve this.	The current flu pandemic plan should be strengthened to include more information on the scope and scale of the recovery effort likely to be required	H Pearce	01/04/2021	Completed
09/06/2020	There was demand for information to be collated and shared from day one but there was a lag as it took time to develop required report templates to facilitate this e.g. sickness levels, PPE stocks	Y	the Flu Pandemic plan had insufficient templates embedded within it that could be utilised, this needs to be addressed	Review the content of flu pandemic plan to identify what data will be required to be known from the start to capture all the information that was developed for this pandemic and roles and responsibilities for the provision of this information, coordination and standardisation of incident data	H Pearce	01/04/2021	Completed
Date raised / occurred	Incident / issue	Was there a warning Indicator Y / N?	Lesson learned	Action required	Owner	Target date	Status
09/06/2020	Pastoral support from Managers to teams / staff found to be insufficient in some areas, with no regular debrief calls or opportunities to connect with colleagues virtually.	N	Better communication, structured guidance and training required for Managers to ensure clarity on role and responsibilities in terms of pastoral support.	Communications to managers on contact expectations with staff who are working remotely or away from their usual line managers. Place prompt in	N Finnegan	N/A	Completed

				revised flu pandemic plan to address this			
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