

Audit, Governance and Standards Committee

29 July 2021

Corporate Risk Register and Risk Monitoring

Report by Sarah Ireland, Executive Director for Corporate & Communities

Purpose of Report

To provide the Committee with an update on high priority risks identified by directorate management teams, mitigating action being taken and to provide assurance that corporate risks are being monitored and, where necessary, action taken.

Recommendation(s)

The Committee is asked to RESOLVE that:

1. The updated risks and actions are noted;
2. The additional reports, requested at January's AGS meeting, are noted;
3. Decide if any further analysis, explanation or reports are required;
4. The Senior Leadership Team will continue to review the risk register on a quarterly basis.

Benefits to the Community:

The corporate risk register and the identification of risks together with mitigating actions helps provide assurance that risks are being managed; leading to improved operational and financial management and improved customer service to our residents.

Key Points

- A. A list of high priority risks is provided. This follows the quarterly review of the Corporate Risk Register at the Strategic Leadership Team (SLT) meeting on 8 June 2021
- B. The Committee is invited to review the register and to provide assurance that corporate risks are being monitored and necessary actions are being taken.
- C. The key areas to bring to the attention of committee members are:
 1. Cyber-security ranks as the most significant risk facing the council, given how quickly the status can change and the severe impact that this could have on the operation of council services. Various actions are being taken to mitigate this risk. Chief among these is increased vigilance and staff awareness.
 2. Update on the Dedicated Schools Grant deficit, and negotiation with DfE regarding the safety valve agreement and current progress on the deficit reduction plan.

3. New risk concerning Building safety and the increase in responsibility on councils for the safety of buildings over 18m high.
4. New risk concerning Corporate security
5. Ongoing financial pressures; the need to meet the budget amidst:
 - a. Increased demand for services, especially relating to Covid such as Adult Social Care, Children's Services and Community Housing, pressure on staff resources and expenditure to assist meeting demand
 - b. Concerns over reductions to council income, such as Business Rates (and a decreased tax base), Council Tax and earned income sources given the lack of central government funding.
6. This places further emphasis on the need for savings from change and transformation activity and the risk that corporate services will not have sufficient capacity or capabilities to support this alongside service requirements.
7. Further papers on the Dedicated Schools Grant and Brexit risks are included. The Brexit risks continue to be overseen by the Brexit working group that has a fuller list of risks.

Context

1. N/A

Proposal and Options

2. N/A

Other headings

Risk scoring

Risks are assessed on the basis of their likelihood of occurring (from less than 10% to greater than 80%) and their subsequent impact (ranging from no material impact up to a potential failure of the Council to deliver some or all of its services). A matrix, shown below, is used to provide an overall numerical score.

The matrix uses a traffic light approach to show red (high), medium (amber) and low (green) risks.

Impact	CRITICAL	5	5	10	15	20	25
	SERIOUS	4	4	8	12	16	20
	MODERATE	3	3	6	9	12	15
	MARGINAL	2	2	4	6	8	10
	NEGLIGIBLE	1	1	2	3	4	5
		1	2	3	4	5	
		VERY LOW	LOW	MED	HIGH	VERY HIGH	
		Likelihood					

Definitions

Pre-mitigation assessment (or gross score): the level of risk faced on the basis that there is no further action being taken to manage the risk - a 'worst case' scenario should the risk occur.

Post-mitigation assessment (or residual score): the level of risk faced after any further internal controls and mitigating actions have been applied or taken into account. This is the current score.

Risk treatment: mitigation actions - 'the four T's'

In responding to identified risks, mitigation actions can be categorised as follows:

Tolerate: Ability to do anything about some risks may be limited, or the cost of taking any action may be disproportionate to the potential benefit gained. In these cases the most appropriate response may be toleration. This can be more the case for low-level risks but would be uncommon for a high-level corporate risk.

Treat: By far the greater number of risks will belong to this category. The purpose of treatment is not necessarily to obviate the risk, but more likely to contain the risk to an acceptable level. The actions that the Council takes in treating risk are called 'controls' which are designed to contain risk to levels considered acceptable to the Council.

Transfer: For some risks, the best response may be to transfer them. This might be done by conventional insurance, or it might be done by paying a third party to take the risk in another way.

Terminate: Some risks will only be treatable, or containable to acceptable levels, by terminating the activity. It should be noted that the option of termination of activities may be

severely limited in government when compared to the private sector; a number of activities are conducted in the government sector because the associated risks are so great that there is no other way in which the output or outcome, which is required for the public benefit, can be achieved.

Corporate Risk Register

Those risks which could have an impact on the functioning of the Council as a whole have been escalated from departmental/directorate registers to the Corporate Risk Register. In addition SLT has identified a number of cross cutting risks which have also been included.

There are 22 risks on the Corporate Risk Register.

Risks are displayed in descending order based on their post-mitigation residual risk score. Broken down by directorate these are as follows:

	Green	Amber	Red	Total
Adult Social Care & Health	-	2	-	2
Childrens	-	3	-	3
Corporate & Communities	1	1	2	5
Place	1	3	1	5
SLT cross-cutting	1	4	2	7

More detailed narrative on Red and Amber-rated (post-mitigation/current) risks:

i) C&C Risk DI01	Title: Service Delivery - Cyber Security		
	Service: Digital & IT		
Pre-mitigation Gross score	Likelihood: 5	Impact: 5	Total: 25
Post-mitigation Residual score	Likelihood: 4	Impact: 5	Total: 20
<p>Description: Old and unsupported operating systems, lack of staff awareness and training, add to the risk of vulnerability to a cyber attack. This could lead to a major loss of data and/or loss of systems resulting in a severe impact on the ability to run council services for any period of time and subsequent impact on staff, residents and council finances and reputation.</p>			

Mitigating action: TREAT

- NCSC protections implemented. The Security Board has been reinvigorated and is meeting regularly to track and review any threats.
- Improved monitoring tools in place
- Independent review of IT systems
- Infrastructure programme in place to improve systems and make further improvements to their security
- Staff awareness training, with over 90% having undertaken mandatory information/cyber security training modules

ii) SLT Risk 11	Title: Pandemic - Novel Coronavirus Service: Cross-cutting		
Pre-mitigation Gross score	Likelihood: 5	Impact: 5	Total: 25
Post-mitigation Residual score	Likelihood: 5	Impact: 4	Total: 20
<p>Description: Coronavirus (originally identified in January 2020) is continuing to impact on the health of the borough's residents. The extent of future impact, in terms of new cases, remains unclear - and depends on: effectiveness, availability and uptake of the vaccines, testing and tracing, new variants, behavior of residents and national strategy on control measures and also local implementation of control measures. Risks from potential short, medium and long-term impact of 'Long-Covid' on people's health and livelihoods are currently not well understood. Changes in any of these factors have the potential for an increased level of demand and stress on healthcare facilities, services and personnel both in the short and long-term.</p>			
<p>Mitigating action: TREAT</p> <ul style="list-style-type: none"> ● The pandemic response continues across the borough. ● The work has been summarised in the updated Local Outbreak Control PPlan V5 (Local Outbreak Management PPlan): https://www.kingston.gov.uk/covid19-KLOCP ● The plan explains how we will work in partnership with local and national organisations and businesses to investigate, manage and control local outbreaks to Keep Kingston Safe 			

iii) PL Risk PI05	Title: Building Safety (NEW)		
	Service: Strategic Planning & Infrastructure		
Pre-mitigation Gross score	Likelihood: 4	Impact: 4	Total: 16
Post-mitigation Residual score	Likelihood: 4	Impact: 4	Total: 16
<p>Description:</p> <p>Emerging legislation - Building Safety Act - as a result of Grenfell, will place a responsibility upon the Council for fire safety regulations to be adequate for both public and privately owned buildings (over 18 metres) within the borough - ensuring that building safety is managed correctly. This will require additional resources to manage and requires a coordinated assessment of the Health and Safety implications and risk across the organisation.</p> <p>Without adequate response and preparation such as proper inspection then there is a risk that the Council (in particular named persons will be required) will be liable for any incident/accident.</p>			
<p>Mitigating action: TREAT</p> <ul style="list-style-type: none"> • While work in anticipating and preparing for the requirements of the Building Safety Bill is taking place at an individual service level, there is yet to be a coordinated assessment of the Health and Safety implications and risk across the organisation. • The H&S board has endorsed the development of a Building Safety Bill Cross Corporate Working Group. 			

iv) SLT Risk 16	Title: Corporate security functions (NEW)		
	Service: Cross-cutting		
Pre-mitigation Gross score	Likelihood: 4	Impact: 5	Total: 20
Post-mitigation Residual score	Likelihood: 4	Impact: 4	Total: 16
<p>Description:</p> <p>Corporate Security Functions: delivery & governance. There is no Corporate Security Policy within the RBK Policy Framework and there needs to be a greater level of resource and expertise to provide adequate support to the senior management team and the wider organisation.</p> <p>The lack of resources over a number of years, has led to a deterioration in all matters relating to security across the organisation.</p>			

The operational TFFM Service is not being delivered to the required standard as set out in the TFFM specification. The area is subject to an improvement plan to bring the quality of the service up to standard (ISO 9001). Work in this area is ongoing with ENGIE to develop written assignment instructions and a range of local operating procedures.

The CCTV Policy requires review.

The provision of CCTV in the Public Realm is the subject to an internal review. This review and any subsequent decisions that recommend a change will require significant involvement from RBK to understand the present links between the monitoring arrangements, cameras, support equipment, BT lines and wifi networks and staffing. Subsequently, the decisions of the review may have an impact on the reprovisioning of services.

The lack of assurance of these functions is a significant risk to the council, including, but not limited to:

- corporate manslaughter charges should someone die as a result of lack of provision of these services;
- legal challenge if CCTV data is not collected and held in accordance with the law (established need, RIDDOR);
- inability to evict illegal encampments/incursions and cost of remedial works necessary;
- on going 'hot spot' issues with reputational and relationship risks and high opportunity costs

Mitigating action: TREAT

- Paper taken to SLT on 23/02/21 outlining the issues. Agreed that additional resource is required to lead this as the time and scope is beyond what anyone can do in addition to their current role.
- CCTV paper in association with LB Merton will come back to SLT at the end of March 2021 with options appraisal, to include: current costs and future proofing advice, potential for income generation.
- Future of the Guildhall site and location will feed in to future plans and FM contact specification for retender.
- SLLP reviewing Bye laws currently still in place for the borough.
- Regulatory powers and resource to be part of the scope, using learning from other areas.
- Working group to address current issues in the interim.
- External support will be brought in to assist with this cross-cutting issue.

v) C&C Risk CF07	Title: Income from business rates Service: Finance		
Pre-mitigation Gross score	Likelihood: 4	Impact: 4	Total: 16
Post-mitigation Residual score	Likelihood: 4	Impact: 4	Total: 16
<p>Description: Temporary business rate reliefs were granted to all businesses in the retail, hospitality and leisure sectors along with nurseries as result of the Covid-19 pandemic. These reliefs account for 55-60% of net business rates payable to RBK. Whilst businesses have full relief there is no incentive to tell us to changes in business operation and therefore risk that income will fall significantly when the relief scheme ends and without prior warning.</p>			
<p>Mitigating action: TREAT</p> <ul style="list-style-type: none"> Continuing to monitor, use of reasonable estimates and liaising with other London Boroughs and use of local intelligence to understand economic impact of Covid-19. Risk remains high as further reliefs have been granted at 100% for first three months of 2021/22 and then at 66% for remainder of the year. Impact of change in operation may start to be identified as changes become due in Q2 2021/22. 			

vi) SLT Risk 15	Title: Delivering budget Service: Cross-cutting		
Pre-mitigation Gross score	Likelihood: 4	Impact: 5	Total: 20
Post-mitigation Residual score	Likelihood: 3	Impact: 5	Total: 15
<p>Description: Transformation plans and savings programmes are delayed or do not realise savings as planned, leading to both in-year overspends and/or significant financial pressures in future years. This could reduce our already low reserves and place the Council at significant risk of financial instability. Increases in demand for support from adults and childrens care services, as well as legislative changes in Housing and adverse impact of extreme weather on highways are all putting pressure on Council budgets. Some of these demand trends are expected to continue and there is a risk that this is not containable within existing budgets without interventions. The MTFs has limited scope to offer budget growth in any area and consequently we need to deliver changes in what and how we deliver to ensure that increased demand can be met within the cost envelope.</p>			

Mitigating action: TREAT

- Monitoring of forecasts and savings delivery continues on a monthly basis for reporting to SLT with the month 6 forecast showing a nil variance. Demand pressures still exist but have been well addressed through the budget process. The impact of Covid related demand has now emerged as the biggest pressure in the general fund.
- A budget readiness exercise is being completed to assess the organisation's preparedness to deliver against the 21/22 budget which will help identify more specific areas of risk. Progress towards savings for Transformation programmes will be monitored through the 6 week Delivery Boards and overall SLT Transformation Board which is now in place to oversee delivery. This should give early sight of risks against budget delivery and support mitigations being put in place where needed.
- The safety valve agreement relating to the Dedicated Schools grant is now in place, reducing the likelihood of further pressure arising on the general fund from the schools budget.

vii) CH Risk 6	Title: Children's health needs		
	Service: Children's services (AfC)		
Pre-mitigation Gross score	Likelihood: 4	Impact: 5	Total: 20
Post-mitigation Residual score	Likelihood: 3	Impact: 5	Total: 15
Description:			
<p>Failure to meet children's and young people's health needs due to a lack of capacity in nursing, therapy and health visiting services. Children and young people's health and care needs are not met causing them distress or harm. There is a failure to trust in the company's ability to meet children's health and care needs. This may lead to significant reputational damage to the company. Additional management and financial resources are required to improve services.</p>			
Mitigating action: TREAT			
<p>Management has been strengthened in recent years through the appointment of a Head of Health Services and Team Leaders in both operational areas.</p> <p>Permanent recruitment of experienced health professionals remains challenging; however, alternative approaches (including a grow-your-own approach and apprenticeships) have been put in place to better manage workforce planning. A detailed review and plan for successful Health recruitment is going to the AfC Board on 30 June 2021.</p> <p>The LBR/RBK therapy working group, in partnership with the Clinical Commissioning Group (CCG), have increased capacity in therapy services through the implementation of new</p>			

commissioning arrangements, delivery model and funding mechanism.

viii) PL Risk H08	Title: Community Housing safety compliance		
	Service: Homes		
Pre-mitigation Gross score	Likelihood: 4	Impact: 5	Total: 20
Post-mitigation Residual score	Likelihood: 3	Impact: 5	Total: 15
<p>Description: Insufficient checks to ensure compliance on Health & Safety legislation in accommodation provided by Community Housing to service users which could lead to liability in the event of a break of legislation.</p>			
<p>Mitigating action: TREAT</p> <p>Accommodation Service maintained its significant improvement in gas safe compliance returns within the Private Lease Scheme during Quarter 4.</p> <p>The Public Health issues in management of our Hostel accommodation continued to present challenges to the service. However, only one household in Quarter 3 had to be moved on an emergency basis from our family hostel accommodation as a consequence of a positive covid test within their household.</p> <p>Infection mitigation measures in place were acted on over the Christmas holiday period to provide a positive solution in offering accommodation and welfare support to a family but these highlighted the additional control measures required of the service to ensure 24/7 support to resident</p>			

ix) PL Risk H09	Title: Welfare Reform		
	Service: Homes		
Pre-mitigation Gross score	Likelihood: 5	Impact: 4	Total: 20
Post-mitigation Residual score	Likelihood: 3	Impact: 5	Total: 15
<p>Description: Welfare reforms and particularly the roll out of Universal Credit (UC) resulting in increased risk of homelessness across tenure.</p>			
<p>Mitigating action: TREAT</p> <ul style="list-style-type: none"> • Within the Prevention action plan there are measures to ensure referrals to debt 			

advice services made and to include relevant advice on support provision within the Personal Housing Plan issued to those who are approaching as homeless / threatened with homelessness.

- There is a large group that we are currently unable to identify, those in the private rented or owner occupier accommodation.

x) PL Risk PR03	Title: Existing property portfolio Income Exposure		
	Service: Property		
Pre-mitigation Gross score	Likelihood: 3	Impact: 4	Total: 12
Post-mitigation Residual score	Likelihood: 3	Impact: 5	Total: 15
<p>Description: Of the 163 'Investment properties' in Council ownership, the bulk of investment property income is derived from a small number of properties in Kingston town centre creating an income exposure risk.</p> <p><i>Note that the post-mitigation risk assessment - and therefore the current risk level - has increased due to the changes outlined below.</i></p>			
<p>Mitigating action:</p> <ul style="list-style-type: none"> • John Lewis - regular meetings held at senior level. Store continues to perform well relative to lockdown restrictions. JLP remains committed to Kingston. • Saipem holds leases till 2028 on both Conquest House and Kings Place. Break options in 2023. It is possible they may break one of the leases but no decisions have been made as still 2 years out. We have engaged with them early to discuss their intentions and will seek to mitigate risk of voids. 			

xi) C&C Risk 15	Title: Funding changes		
	Service: Finance		
Pre-mitigation Gross score	Likelihood: 4	Impact: 5	Total: 20
Post-mitigation Residual score	Likelihood: 3	Impact: 5	Total: 15
<p>Description: Central Government has set a one year spending review 2020/21.</p>			

Mitigating action: TREAT

- Finance continues to analyse all technical funding announcements and provide input to all consultations on the spending review, fair funding and business rates. Networks with the Society of London Treasurers, the Deputy Treasurers Group and technical forums enable us to receive information early and benefit from a wide range of expertise across London.
- Regular review and stress testing of the Medium Term Financial Plan will enable us to test resilience and benchmark our assumptions against other Councils. The uncertainty will continue for a further period with only a one year settlement expected for 2021/22

xii) CH Risk 3/ C&C Risk 04	Title: DSG Deficit		
	Service: Children’s services (AfC)/Corporate & Communities		
Pre-mitigation Gross score	Likelihood: 5	Impact: 5	Total: 25
Post-mitigation Residual score	Likelihood: 3	Impact: 4	Total: 12
Description: The increasing cumulative deficit on the high needs block, which was forecast to be £25m by March 2021 (with an-year overspend of £6m). If not mitigated, it will undermine the financial sustainability of the Council and /or lead to cuts to general fund expenditure which will result in the Council failing to meet statutory duties.			
Mitigating action: TREAT			
<ul style="list-style-type: none"> • In March 2021, the Council and DfE reached an agreement, whereby the Council will receive £27m over the next 5 years if it can limit the growth of its DSG deficit. Provided Kingston continues to meet the conditions of its deficit management plan then further payments will be made over the coming four years and which should clear the council’s SEND funding deficit by 2025. • In return Kingston and AfC will need to meet conditions in its SEND Futures and deficit management plan - including expanding specialist provision, improving support available in schools and reducing placements in more expensive non-maintained and independent special schools. <p>Further narrative on the DSG and deficit management plan arrangement is contained in a separate update paper in the Annex.</p>			

xiii) CH Risk 19	Title: DSG deficit management (NEW)		
	Service: Children's services (AfC)		
Pre-mitigation Gross score	Likelihood: 4	Impact: 5	Total: 20
Post-mitigation Residual score	Likelihood: 3	Impact: 4	Total: 12
<p>Description: Risk that the Dedicated Schools Grant (DSG) deficit management plans are not delivered and there are insufficient controls and mechanisms in place to track progress. This may lead to:</p> <ul style="list-style-type: none"> - Failure to secure future safety valve funding from the Department for Education (LBR and RBK) - In-year overspends and pressures over and above what was anticipated in the deficit management plan - Failure to deliver required savings resulting in increased pressure on owning councils resulting in the issuing of a section 114 notice <p><i>Note that going forward this will replace CH03 DSG risk</i></p>			
<p>Mitigating action: TREAT</p> <ul style="list-style-type: none"> ● Quarterly submission returns to the Department for Education with updated on progress ● Specific delivery groups with each Council ● Workstream meetings in LBR and RBK to discuss key project progress as part of the deficit management plan ● Increased key performance indicators ● Monthly budget monitoring to ensure that savings and financial performance is on track ● Robust monitoring and clear reporting separating business as usual and CV19 spend and projections to continue in 21/22. Adverse/favourable impacts tracked separately for gross financial reporting. 			

xiv) SLT Risk 07	Title: Climate Emergency		
	Service: Cross-cutting risk		
Pre-mitigation Gross score	Likelihood: 4	Impact: 4	Total: 16
Post-mitigation Residual score	Likelihood: 3	Impact: 4	Total: 12
<p>Description:</p> <p>The Council has declared a climate emergency with the target of reaching net or zero carbon emissions by 2038. An effective response requires input into the programme and delivery of actions from across the Council. The cost of meeting the target is not yet understood but significant investment may be required. Resource and skills gaps need to be addressed, for example to be in a better place to secure external funding. Further delay in action will make the target more challenging and has a further reputational risk. However, it should be recognised that although significant steps forward need to be taken urgently, it is also important to build the blocks of this programme to ensure delivery given the long term target and recognition that technological and legislative changes will have major impacts on requirements and delivery over the next few years. Covid 19 has had a serious impact in the ability to galvanise and progress this programme.</p>			
<p>Mitigating action: TREAT</p> <ul style="list-style-type: none"> Programme Director appointed, steering group established (along with specialist working groups to develop the programme and oversee delivery). Draft action plan under preparation for public consultation in the autumn of 2021 Funding considerations will be addressed in line with preparation of the MTFS 2022-2025. The programme is interlinked with other transformation programmes that have picked up pace since Covid namely Future Workplaces, Asset Challenge and the Economic Recovery Taskforce. 			

xv) CH Risk 05	Title: Covid-19 Children's services impact		
	Service: Children's services (AfC)		
Pre-mitigation Gross score	Likelihood: 3	Impact: 5	Total: 15
Post-mitigation Residual score	Likelihood: 3	Impact: 4	Total: 12
<ul style="list-style-type: none"> Failure to meet children's and young people's needs and/or identify children and young people in need of help and protection, and a failure to provide the appropriate 			

support to ensure these children are appropriately safeguarded.

- Children and young people's health and care needs are not met during COVID-19 causing them distress or harm. There is a failure to trust in the company's ability to meet children's health and care needs during COVID-19 and there could be significant reputational damage to the company.
- The impact of COVID-19 on management resources and availability leads to a significant pressure on business as usual operations.

Mitigating action: TREAT

- AfC Gold Command Group led by the two Director of Children's Services to plan business as usual, COVID-19 response and recovery.
- Guidance and policies in line with guidance from Public Health England, the Department for Health and Social Care and the Department for Education.
- Dedicated intranet section and weekly communications on procedures, policies and general developments.
- Clear protocol for the delivery of children's social care services during COVID-19 detailing critical tasks and services that will be delivered against the key elements of the Children Act.

xvi) AH Risk 01	Title: Adult Safeguarding		
	Service: Adult Social Care & Health		
Pre-mitigation Gross score	Likelihood: 3	Impact: 5	Total: 15
Post-mitigation Residual score	Likelihood: 4	Impact: 3	Total: 12

A serious safeguarding failure occurs.

The adult in question will come to harm which could result in litigation against the council and a corresponding loss of income and adverse publicity against the council.

Mitigating action: TREAT

Quarter 4 data shows that over this year, safeguarding concerns have increased meaning increase in enquiries (higher rate of conversion) and higher risk being managed within ASC. Whilst we have robust systems in place to monitor, manage and support such as multi agency risk panels, we need to review the safeguarding workforce arrangements to ensure we achieve the right balance in managing the increase, triage and working with enquiries in a timely manner, as well as develop new models and practice that emerge from local and national SAR's.

MSP project is underway to help ASC gain feedback on safeguarding practice as well as ensuring a dedicated safeguarding section in supervision records. Good level of outcomes through safeguarding investigations maintained as identified by performance figures.

xvii) AH Risk 02	Title: Winter service pressures Service: Adult Social Care & Health		
Pre-mitigation Gross score	Likelihood: 3	Impact: 4	Total: 12
Post-mitigation Residual score	Likelihood: 3	Impact: 4	Total: 12
<p>Winter pressures and associated illness and accidents put pressure on hospital admissions and therefore discharges. We need to ensure that people are discharged in a timely and safe way. There is additional risk associated with reduced capacity within reablement which may impact on timely discharges, increased admissions to residential care or long term packages of home care being the first option.</p>			
<p>Mitigating action: TREAT</p> <p>Discharge to Assess (D2A) transformation continues now that the 2nd wave of Covid-19 has decreased. Next steps are the development of D2A with system partners including development of a discharge hub, Pathway 3, extended / weekend hours Reablement, Brokerage, therapy review across the system. Transformation multi-agency workstream established with health drawing on data analyst regarding capacity and capabilities of workforce</p> <p>Fortnightly meetings are being arranged by EY as well as exploring BCF / discharge resources to support designing pathways. We are pulling together key points for Pathway 3 work to be addressed by the start of Q3 and review capacity.</p> <p>An options paper being undertaken in health to move Occupational therapy capacity from the acute into the community. There is still an immediate gap to fill which is being discussed in commissioning and operations and YHC resources.</p>			

xviii) SLT Risk 01	Title: Brexit agreement outcomes Service: Cross-cutting risk		
Pre-mitigation Gross score	Likelihood: 4	Impact: 4	Total: 16
Post-mitigation Residual score	Likelihood: 4	Impact: 3	Total: 12

While implications of the Brexit trade agreement are becoming clearer, it remains difficult to assess the impacts of Brexit in isolation, however the council is monitoring the combined impacts of Covid-19 and Brexit closely.

Notable sub-risks include:

- Data adequacy: The UK is currently subject to a bridging arrangement, the EU having failed to make an 'adequacy decision' prior to the end of the transition period. This lack of adequacy decision threatens the flow of data from the EU to the UK.
- Supply Chain: Impacts for council supply chains and for businesses that have customer / supply chains that cross EU boundaries facing increasing costs / delays - and the possible knock-on effect for Business Rates revenue. Impacts for residents experiencing higher costs.
- Settled status: The council has been intensively publicising the need for EU citizens to apply for settled status. Despite this, there will be residents who have not made this application by the 30th June.
- EU Residency: limitations on movement of workers affecting staffing for RBK's partners which utilise or subcontract to firms with high proportions of EU workers (e.g. ASC / Waste Services);
- Funding: Impacts on EU funding for VCS and charitable sector

Mitigating action: TREAT

Data adequacy: On the 21 June the European Council signed off a post-Brexit data adequacy deal with the UK to ensure data transfers can continue between the EU and the UK for the next 12 months. This is important for the Council, in ensuring it and borough businesses that trade with European companies, including Council suppliers and those contracted to provide services (e.g. Veolia, Engie) that they are compliant and can continue to exchange personal data. Further guidance is pending from South London Legal Partnership.

Supply Chain: The Council has reciprocal arrangements in place with other councils in the event of supply chain disruption. Supply Chain impacts will be kept under review as business as usual by council services.

Settled Status: The council Brexit working group continues to meet where necessary and will meet following the 30th June to keep impacts of the EUSS deadline under review, and will continue to link with pan-London and national support to mitigate impacts for residents who have not made an application.

An additional paper is included in the annex

xix) SLT Risk 08	Title: Transformation - Organisational Priority and Capacity Service: Cross-cutting risk		
Pre-mitigation Gross score	Likelihood: 4	Impact: 4	Total: 16
Post-mitigation Residual score	Likelihood: 3	Impact: 4	Total: 12
<p>There is a risk that the organisation does not prioritise transformation activities/does not have capacity to engage as it responds to competing pressures including delivering business as usual and responding to the ongoing COVID-19 pandemic. This will impact ability to deliver financial benefits and community outcomes.</p> <p>Due to the COVID-19 pandemic the initiation of the Transformation programme has been significantly delayed. Mobilisation has been happening across the summer as part of budget setting for 21/22 - 24/25, however, services across the organisation continue to be under significant pressures including responding to service requirements and responding to the pandemic.</p> <p>Mitigating action: TREAT</p> <p>This continues to be a risk as the uncertainty of the pandemic situation persists, balanced with the scale of the ambition for change of the organisation. However, this will be overseen by the 4 x Delivery Boards and the overall SLT Transformation Board that will be overseeing Transformation activity and overall progress of the Transformation Programme will be tracked against the critical path. These forums meet 6 weekly and progress towards delivery will be tracked. This will help ensure continued focus and momentum on Transformation and will help identify risks and issues related to capacity and delivery.</p>			

Three other Corporate risks (rated (post-mitigation) Green) are:

SLT10 - Governance statutory requirements

PHO01 - Health & safety standards in housing stock

CCHO04 - Health and Safety incidents

Timescale

- Risks are monitored through directorates and are reported quarterly to directorate management teams, the Corporate Performance & Risk Board and Senior Leadership Team quarterly. The next report to the Audit, Governance and Standards Committee will be in December.

Financial Context

- The council is operating in an increasingly challenging financial environment. Kingston faced a number of financial challenges in the medium to longer term - even before the Covid-19 outbreak, which has further added to these challenges.

The economic and financial consequences of the pandemic, growing demand for services, and limited government grant funding make it difficult to find adequate funds to meet the borough's needs.

5. The future of local government finance faces a significant level of uncertainty. The impact of the Fair Funding Review and a future review of business rates is currently unknown, and the lasting effects of Covid-19 on our residents, local businesses and the Council itself remain uncertain.
6. Despite these challenges the council has a drive and commitment to ensure it is doing the best for residents and communities

Resource Implications

7. This report contains an update on the key risks the Council is exposed to. The contents of the report in itself does therefore not contain specific financial implications that are not already reflected in plans. However a number of the risks discussed would have serious financial consequences should they materialise. Where applicable, these have been mentioned in the report; of particular note are the red-rated risks - considered to have a high likelihood and impact - and which would have ensuing financial costs.
8. The DSG risk and deficit reduction plan are mentioned under xii and xiii above.
9. A budget monitoring report is considered by the Finance and Regeneration Committee on a quarterly basis. The in year financial forecast considered as part of that report reflects the known short term financial impacts of performance and risk management. The medium term financial impacts are reflected in setting the budget for the coming year and the medium term financial plan for the coming four years.

Legal Implications

10. Legal advice will be provided, where necessary, to lead officers on specific areas of risk. There are no particular legal issues arising in respect of this report

Risk Assessment

11. The above report sets out corporate risks; these are assessed in terms of likelihood and impact pre-mitigation - 'gross' and post-mitigation - 'residual'.

Equalities Analysis

12. An Equalities Impact Assessment (Form A) has been undertaken which has identified a need to better document equalities considerations into risk reporting. Work is underway on this.

Health Implications

13. Health implications arising from Covid, including mental health.

Road Network Implications

14. There are no road network implications arising from this report.

Sustainability Implications

15. The cross-cutting risk concerning Climate Emergency (SLT Risk 7) mentions the delay of the programme due to the Council's Covid response and the potential financial impact of meeting net zero carbon emissions.

Background papers

- Corporate Performance & Risk report - Quarter 4
- Corporate risk register - Quarter 2 (updated June 2021)

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Annex

i) Report on Dedicated Schools Grant risk

Background/Context

Funding to support children and young people with Special Educational Needs and Disability (SEND), from their early years to age 25, comes from the high needs block of the Dedicated Schools Grant (DSG). The DSG is provided by central government to every upper-tier local authority to fund local early years provision, maintained schools and free schools, as well as educational provision and support for children and young people with SEND.

The level of DSG for each upper-tier local authority is calculated using a national funding formula based on the total size of the child population, the level of deprivation and educational attainment scores. The formula is not adjusted to reflect the prevalence of SEND within the local authority area.

Since 2012 Kingston Council has not received enough money from central government to cover the cost of delivering SEND services. This has meant it has had to spend far more than it receives in funding to support children and young people across the borough, placing a huge strain on council finances.

Risk

The risk is that the DSG deficit will become greater than the Council's general fund and earmarked reserves. This will result in a financially unsustainable organisation, with the threat of a section 114 notice should expenditure exceed income, as well as cuts to general fund expenditure which could result in the Council failing to meet statutory duties.

In its pre-mitigation assessment the risk scored the maximum 5 for both impact and likelihood, providing a total score of 25.

Mitigation

The Council has worked with its partners to try to deliver the DSG high needs block within existing funding, or to maintain a sustainable balance sheet position by transferring resources from the other essential services that the Council is required to deliver. From 2019/20 the Council ceased receiving a Revenue Support Grant from central government, so is reliant on generating its resources from council tax, business rates and other income generation.

In 2019/20 the Council identified a £3.5m contribution to reserves to assist financial stability, as well as agreeing to a three Year SEND Transformation Plan consisting of a range of activities to manage the in-year overspend. Despite these plans there has been continued demand in SEND that has continued to outstrip the funding allocations received year on year. This resulted in the cumulative deficit on the Dedicated Schools Grant to continue to grow. By the end of March 2021, without intervention or additional funding, the deficit would have reached £25 million.

The risk's post-mitigation assessment score attains 5 for impact and 5 for likelihood, providing a total score of 25. The DSG deficit ranks as the Council's highest corporate risk; given the scale and continued growth of the deficit.

The council has lobbied the Department for Education (DfE), MHCLG and the Treasury concerning the formula for DSG, which puts Kingston at a disadvantage, and to redress the funding deficit.

Mitigation - latest position

In March 2021, the Council and DfE reached an agreement, whereby the Council will receive £27m over the next 5 years if it can limit the growth of its DSG deficit, and meet the agreed financial and activity targets. A total of £9 million, plus the write-off of a £3 million advance received in 2018, was agreed and received at the end of 2020/21, reducing the total cumulative deficit to £12.4m as at 31 March 2021. Provided Kingston continues to meet the conditions of its deficit management plan then further payments will be made over the coming four years to clear the council's SEND funding deficit by 2025. Kingston is one of five local authorities to receive such 'Safety valve agreement' funding, including Richmond.

In return for the safety valve funding, Kingston and AfC will need to meet conditions in its SEND Futures and deficit management plan - including expanding specialist provision, improving support available in schools and reducing placements in more expensive non-maintained and independent special schools.

The Council is expected to report at least every quarter on how plans are progressing and to hold meetings with DfE officials. DfE will also send a commission to scrutinise capital plans for SEND and alternative provision.

A first quarter summary update report was produced in June and this states that Kingston has made significant progress on all SEND Futures Plan areas associated with the Safety Valve Agreement in the last three months since the agreement was signed. This should allow for the first quarterly payment of £1.25m for 2021/22 to be released from the DfE.

There is a good level of assurance given for seven out of the nine conditions. It is too early in the year to provide absolute assurance that the conditions will be met for these two areas (improving the efficiency of commissioning services, and to increase contributions from health and social care) but we are monitoring activity and are assured that this is moving forward in the right direction. **There are no low assurance areas meaning there are no areas where Kingston does not think it will meet the conditions set out in the agreement at this stage.**

The projections included in the latest deficit management plan include a future demand (or contingency) allowance to ensure forecasts are as accurate as possible. Whilst progress is positive at this stage, it is still very early in the financial year and a proportion of placement changes for the new academic year are still unknown. **For this reason the managed risk score for this area has been scored at twelve, with a likelihood rating of four and an**

impact rating of three. It is hoped that as the financial year and academic year progresses, and if the first year of the deficit management plan remains on track, then these scores can be lowered.

ii) Report on Brexit agreement outcomes

Background

Last year, in the run-up to the deadline for an agreement with Europe on the terms of a Brexit trade agreement, the threat of no-deal was significant. There was uncertainty concerning what this might mean for the Council, businesses and residents in the borough.

The main risks identified concerned:

- EU residency - limitations on the movement of EU workers may affect staffing for RBK's partners which utilise them;
- Legislation changes across regulatory areas and procurement, including Data adequacy concerning the transfer of data between UK and EU;
- Local businesses that have customer/supply chains that cross EU boundaries facing increasing costs/delays - and the possible knock-on effect for Business Rates revenue.
- Goods and services that are subject to tariffs and border checks;

EU residency

Risk

Settled Status: EU nationals are required to apply for settled status in the UK before the end of June. Without this, limitations on the movement of EU nationals may ensue including access to employment, healthcare, benefits etc. This has implications for RBK and partners that utilise or sub-contract to firms with high proportions of EU workers, for example in ASC and Waste Services.

Mitigation

The council Brexit working group continues to meet where necessary and will meet following the 30th June to keep impacts of the EUSS deadline under review, and will continue to link with pan-London and national support to mitigate impacts for residents who have not made an application.

In preparation for the deadline notifications were sent out reminding EU nationals to apply for residency (with council tax to each household), to temporary housing as well as through communications on the council website and via social media.

As at mid-July, those residents unable to apply within the original required timeframe, for example due to a lack of access to documentation and the vulnerable, have been invited to make late applications. Government rules are subject to change and it may be some time before we can properly assess the number without residency whilst applications are

processed at the Home Office, and the implications of not having EU settled status. Employers are not currently responsible for checking that their existing employees have settled status but are now required to check any applicants. The Brexit working group is watching what happens and for any signs of impact on the Council, from affected residents in the borough.

Legislation - Data Adequacy

Risk

Unless there is a deal which states otherwise, personal data can only be transferred from the EU to the UK if the EU makes a formal decision (an “adequacy decision”) permitting this. If the EU deems the UK’s arrangements to be inadequate this could disrupt the operation of services of those companies that transfer data between the UK and EU.

Following the UK’s withdrawal from the EU, the UK and the EU agreed to temporarily keep existing data transfer arrangements in place – until 1st July at the latest – while negotiating over a permanent adequacy solution. A previous European Council resolution had stated that without changes national data protection authorities should suspend transfers of personal data to the UK when indiscriminate access is possible.

The majority of business systems are hosted by the Council and therefore this risk does not apply. However the Council needs to consider outsourced services and its supply chain and to prepare for a no deal or no adequacy decision by:

- Identifying any contracts where personal data is transferred from the EU to the UK
- Contacting the contractor or service provider to include a standard contractual clause agreement (approved by the EU)

Mitigation

As above, work was undertaken to contact suppliers to ascertain whether any data was held in the EU and any risks involved in storing and processing data.

As at 21 June, The European Council has signed off on a post-Brexit data adequacy deal with the UK that ensures data transfers can continue between the EU and the UK. This is important for the Council, as well as borough businesses that trade with European companies, including Council suppliers and those contracted to provide services (e.g. Veolia, Engie).

The South London Legal Partnership will be sharing further details in the coming weeks.

The agreement will broadly keep the UK’s existing data adequacy agreement in place and approves the UK’s data protection system and protocols for the transfer of personal data from Europe, concluding that the UK’s data protection law and practice “ensures an essentially equivalent level of protection” to that guaranteed under the General Data Protection Regulation and the Law Enforcement Directive. The government estimated that without adequacy the UK economy could lose up to £85bn.

Impact on local businesses

Risk

Local businesses that have customer/supply chains that cross EU boundaries may face increasing costs and delays to the transit of goods. This may impact their revenue, profitability and long-term prospects. In turn there would be a possible knock-on effect for Business Rates revenue for the Council.

Also of significance and which has received recent publicity is the national shortage of HGV drivers and its impact on haulage, supply chains, and amongst Council services it is acknowledged that the shortage is impacting waste management collections.

An important point to note is that whilst Brexit has an impact on local businesses and supply chains, Covid and tier restrictions and the recent substantial increase in cases and requirements to self-isolate also plays a significant role in this. To identify and separate those that relate specifically to Brexit is problematic and much of the economic analysis being undertaken very much focuses on the impact of Covid and post-Covid recovery.

The Brexit working group continues to keep a close eye on these developments and the impact within the borough.

Where Brexit is likely to have a greater impact will be on financial regulation and skills availability which will impact on the growth of London's economy.

Impact on low socio-economic groups

The potential for supply chain interruption could lead to an increase in food and fuel prices. Any increase in prices will disproportionately impact those on low incomes. Council services that support those on low incomes may expect to see an increase in demand. The Council will continue to monitor for this impact and is working with crisis services such as the foodbank to ensure that there is support in place for residents on low incomes.