

RISK ASSESSMENT

INTRODUCTORY POINT

The Freedom of Information Act means that, subject to various exceptions which have little relevance to the Parish Council's limited range of activities, all documentation generated by the Parish Council and by individual Councillors or the Clerk in the exercise of their duties is more open to public scrutiny than it has ever been. The main risk consequent on this, given the very limited powers of the Council, is that it would become apparent that a third party had been defamed. The Council does carry libel and slander insurance, though this is limited in scope - and it is better not to be sued. All Councillors and the Clerk need therefore, to be careful as to their words and actions.

ACTIVITIES

1. **Planning**

Advising/expressing an opinion

In the case of major applications (i.e. those with a wider impact or implications) making sure affected residents are aware of an application, canvassing their views, and reflecting them in the Parish Council's own submission

Risks:

The council does not make the decision, and has no power so cannot be held responsible for the outcome.

However, if the Council is at risk from an aggrieved local resident, either because the Council failed to ensure that he/she was aware of the application, or because the Council put into the heads of the planners at the Borough Council a reason for refusal which would not otherwise have occurred to them, or because the Council misrepresented the facts?

In theory, yes, in that the Council cannot stop anyone suing it. However, the Parish Council carries insurance which provides cover for Councillors and for the Clerk against legal costs incurred in defending civil actions, including defamation. In addition, the Council does try to notify neighbours of an application which might affect them.

During 2006, the Council also took out official's indemnity insurance, which gives Councillors and the Clerk protection against the financial consequences of third party claims arising out of them carrying out their duties.

2. **Roads**

Campaigning for road safety improvements (signs, road markings etc)

Informing the highways authority of required maintenance

Risks:

There is little risk here: the Council lobbies and the highways authority makes the decision. Again, there is a theoretical risk of someone injured in a crash suing the Council if the Council was aware of a traffic hazard and failed to notify the highways authority, but such a challenge is unlikely to be made because of the shallowness of the Council's pocket and lack of power, and is even less likely to succeed, in that the Council has no duty to inform the highways authority of such things. A passer-by injured by a falling tree will sue the

landowner, and is no more likely to sue the Parish Council than any resident of the Parish who knew there was a hazard but who failed to do anything about it.

3. **Footpaths**

Helping to help keep footpaths open. Again, a theoretical risk if the Council were aware of a dangerous bull in a field and failed to notify the County Council. In reality any litigation would be against the landowner concerned, and not even against the County Council

4. **Environment**

Helping to keep the Parish clean and tidy by identifying problems and either requesting the relevant landowner to resolve them or contacting the Borough Council, or County Council if the problem is on the highway. It is very hard to identify a real risk.

5. **Other**

Hoar Cross is a small Council serving a small Parish, and does not maintain recreation grounds, cemeteries etc. If the Council does ever get involved in any activities as a Parish Council (such as repairing stiles and planting trees and hedges) then the Council insurance should provide cover. The Council occasionally engages contractors, and requires all contractors to carry their own public liability insurance. The Council should also require any contractor to carry out a risk assessment before commencing work and to provide a copy of its Health and Safety policy.

ASSETS

The council owns a bus shelter, two noticeboards, two litter bins, three benches, a village sign and thirteen sets of speed gates. All assets are insured against loss or damage. Each is maintained in reasonably good condition and is monitored to ensure it does not get into a dangerous state.

FINANCIAL RISKS

1. **Risk of Fraud**

This risk is remote for the following reasons:

all requests for payments have to be supported by appropriate paperwork, approved by the full Parish Council and minuted;
all payments require the signatures of 2 Councillors, and the person generating the requests for payment (the Clerk) is never a signatory;
there are regular internal and external audits;
the budget of the Parish Council is so small that unusual payments are likely to stand out;
the above factors make the risk of detection very high.

2. **Risk of an Improper Payment by the Council**

If the Parish Council makes an unauthorised payment then the individual Councillors are personally liable to make good the unauthorised payment. Therefore, it is the responsibility of each individual Councillor to know the law. Each current Councillor has been given a booklet/leaflet summarising his/her duties, responsibilities and powers. The Clerk reviews this situation on an annual basis, ensuring that the most recent edition of the booklet is available and that Councillors hold a copy and reminding them that an annual re-read is advisable

3. **Risk of Inadequate Insurance Cover**

Reference has been made to various risks which are (or should be) insured against. The Council reviews the existing insurance arrangements on an annual basis prior to renewal, and considers whether any changes are needed to the nature and extent of the cover. In addition half way through the insurance year, the Clerk should review the insurance conditions and that they have been complied with, as an insurance contract is one of the utmost good faith, and any failure to comply with the requirements of the insurer could vitiate cover.

4. **Internal Controls**

There are existing internal controls, as described in 1 above. {It is a condition of the Council's insurance that the petty cash be checked by someone other than the Clerk at least quarterly, and it is recognised that this has not been done previously.} A quarterly review of the bank reconciliation is also required.

The Clerk carries out regular back up of all Council information held on her computer.

Minutes - Amongst the Councillors there will be a full set going back a number of years, and the older original Minutes have been deposited at the County Record Office.

Financial Records - Duplicate bank statements can be obtained. The accounts ledger could almost certainly be re-created from the records of the previous Minutes, the financial report presented to Councillors at each meeting and from bank statements. Duplicate invoices relating to unclaimed VAT could in most cases be obtained, although there might be difficulty in knowing who to write to, if address details have been destroyed also. {Less material items such as petty cash book, stamp book, clerk's records of unclaimed expenses could be estimated.}

Correspondence - Unless previously copied to Councillors, letters in and out would be lost. The risk of this occurring does not justify the very expensive policy of copying all correspondence, both in and out, although a copy of every letter sent by the Clerk is retained.

Conclusion - The Council's existing systems would enable most key information to be duplicated.

Ratified at the meeting of
Hoar Cross Parish Council
December 2023