Technical paper

The governance risk and resilience framework

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1.   Introduction

This document provides additional context and detail for the practical tools prepared to provide support to councils on governance risk and resilience. It is a technical paper, explaining how research to support this work was carried out and providing more detail on its underpinnings.

2. Who has been involved in this project

This project has been carried out by the Centre for Governance and Scrutiny (CfGS) and Localis.

The project has been supported by:

- The Local Government Association;
- The Ministry of Housing, Communities and Local Government;
- The Chartered Institute of Public Finance and Accountancy;
- Local Partnerships;
- Trowers & Hamlins.

3. The meaning of "governance"

By "**governance**" we mean the systems and relationships which exist to support a council to be effective, well run and accountable. Good governance exists to ensure that councils achieve their intended sustainable economic, societal and environmental outcomes while acting in the public interest at all times.

Core elements of governance include but are not limited to:

- Obeying the law and complying with what is set out in the council's constitution and other governing documents. These are the basic systems and structures underpinning how decisions are made. They involve making decisions which enhance public value:
  o Consciously, for example by clearly following agreed, well understood steps in the decision-making process;
  o Transparently, through the facilitation of open debate, and through engagement and participation from those affected;
  o In a timely, planned manner;
  o With knowledge of available options and using judgement to make informed choices with accurate consideration of risks;
  o With a view to monitoring and understanding outcomes, with results being reported and action to improve being taken as necessary;
  o In an environment of trust and respect where roles are clearly understood.
- The relationships between key individuals in leadership positions (and other stakeholders in other positions).
- The relationships between those individuals and stakeholders and the wider public – how power is understood as a feature of decision-making, and how we seek to share it;
- How attitudes to all of the above influence and direct a council's culture with respect to decision-making and accountability.

These elements align broadly with those set out in the CIPFA/IFAC "International Framework: Good Governance in the Public Sector" (2014).

4. How our objectives have evolved

In 2018 we produced research with Localis entitled "Decline and fall". This research was the precursor to this project. It explored issues around failure, and central Government intervention. The objectives of that work were to:

- Set out a typology of failure which gives a sense of how councils decline and fall, and the points along that slope where earlier intervention could arrest that failure;

- Think about the current systems for intervention and support within the sector, and whether they match the needs identified in this typology;
- Think about the experiences of those subject to intervention, support and oversight, and how those experiences might influence our thinking;
- Given the above, take part in a conversation with others in and beyond the sector to come up with practical suggestions about what we might need to change.

In order to understand risk to governance, we needed to understand failure – how it emerged, and how recovery happened. By understanding the small number of councils who have gone through this experience and the road that led them there, we had confidence that we would be able to understand how and where those earlier experiences – two, three, five years before failure became publicly evidenced – might have relevance to councils more generally. Exploration of this idea provided the foundation of this project. We considered that we could develop some "early warning signs" of risk to governance – the kind of signs that, if left unattended to, could in due course develop into evidence of failure.

In doing this, and in setting out to investigate what "early warning signs" might look like, we made the following early assumptions, which we wanted to test:

- Failure is a slippery slope, a process not an event. There is no obvious start and end point;
- Failure is driven by culture and mindset. The presence of "unknown knowns" seems to be an important feature – features of the council's failure (or risk profile) that are widely, tacitly understood by senior officers but never articulated because they challenge a prevailing orthodoxy;
- Failure can be thrown into relief by a particular set of circumstances but it may not be caused by those circumstances, and those circumstances may not themselves be an automatic consequence of the failure.

We also sought to explore whether anything inherent to structural governance forms would impact on risk and resilience – for example, whether the organisation of committees or a council's formal governance option made it, inherently, more susceptible to risk than any other council. Our assumption was that this would prove exceptionally difficult to prove or disprove, and that the presence or absence of certain structures was more likely to be a symptom of cultural challenges rather than a cause of them. However, we recognised that there was a complex interaction between structures and culture, and that this is undoubtedly an issue that will need to be explored further by others.

We considered that failure could exist in four forms:

- **A failure of culture**. A failure of managerial and political leadership, a breakdown in both external and internal communications, evidence of introversion and defensiveness in how the organisation operates and makes decisions. This might be expressed as a kind of corporate dysfunction. It is quite possible for a council that is failing culturally to continue to deliver services competently and legally.

- **A failure of service.** An inability to understand the intersection between statutory and non-statutory services and how risk factors around specific services (social care, children's services, libraries, waste collection and so on) can have an impact on corporate health. Particular risk factors can include changes in personnel and leadership, increases in demand due to national or demographic factors, market failure and issues with governance (including contract oversight). This is about a failure to understand the needs of local people in how services are designed and delivered. A council can experience failure in a specific service without failing as a corporate entity.

- **A failure of function.** A failure to conform to legal and functional requirements in managing business, making decisions and delivering services on an internal basis. This goes hand in hand with cultural failure but is distinct – this is to take account of the fact that a council can be failing culturally while still continuing to adhere to strong internal systems and processes;

- **A failure of duty.** This is also about adherence to the law in respect of the council's formal service delivery requirements, and is an adjunct to both the failure of function and failure of service. It also connects to an authority's work with partners – through the intersection with the wider public service landscape and neighbouring councils.

This constituted a typology that we planned to further explore through practical research.

We set ourselves a number of questions:

- We recognised that we were making the assumption that a more rigorous system for the prevention of local government failure will involve an evolution of our existing systems rather than a wholesale return to the drawing board. We thought that the basics of Sector Led Improvement (SLI with formal intervention as a longstop felt instinctively right – elements of the system need strengthening but it is difficult to think of how a new system would be designed from scratch. Was this right? Answering this question was important because although our research was not centred on failure per se, the improvement system for local government provides the context in which our work sits;
- Does our typology (above) stand up to scrutiny when judged against people's practical experience of scrutiny at local level?
- How can we translate the typology into something meaningful? How could it be translated into the foundation for meaningful change?
- What does "meaningful" change actually look like? We were not convinced that a kind of toolkit for "identifying failure" or a checklist type approach would work. We considered that some kind of approach which engages with culture and mindset in councils has to be at the heart of any practical support but if so, what would it look like?
- Who needs to play a part in making this happen? What is the role, for example, of statutory officers at a local level, of local networking, of partnerships? What is the role of members and political parties, locally, regionally and nationally?
- Is the nature of risk around governance so bespoke that trying to establish common themes impossible, at least in a way that is consistent?

On the basis of this we had a range of conversations with leading sector organisations in 2019. From these conversations emerged the consortium who have supported this project.

On the basis of this set of assumptions we set out an evidence gathering framework for this project. We concluded that we wanted:

- To produce a toolkit which will support councils to understand where early warning signs might exist of risk to resilience in governance;
- To provide the tools necessary for councils to learn from and plan to mitigate these risks;
- To engage with the mindset, behaviours, values and attitudes necessary in order to take action on the above;
- To ensure that the end product would focus on the management of risk, rather than "recovery from failure". The logic was to be able to identify ways in which councils and their partners could seek to use local insight to mitigate the risk of failure

happening in the first place. This is the reason why "failure" and the specific circumstances surrounding it are not features of the final framework.

To deliver these aims, we resolved to focus on the following research questions:

a) What early warning signs might suggest that risks to resilience in governance might be heightened?
b) How and where did this evidence present itself in relation to councils who have gone through this experience before?
c) What general advice would those with experience of managing governance risk in councils which have experienced it give to other councils?
d) How can government and other national bodies best support councils to be more resilient in their governance arrangements?
e) What form should a thinking toolkit based on self-assessment take?
f) How should we expect that such a toolkit be used to consider and take action on governance resilience and risk?
g) How might such a toolkit be improved?
h) How might such a toolkit be used by councils?

We concluded that the end result would have two parts.

The main part would be a toolkit, which would:

1. Provide a mechanism that will help councils consider if their corporate governance functions have resilient capabilities. Action is led by the "golden triangle" of key statutory officers within a council, but others have leadership responsibilities as well.
2. Describe the behaviours, processes and strategies that might be associated with resilient capabilities and challenge and support councils to develop the critical abilities to recognise how and where such features are present
3. Outline the stages of resilience and help councils' question if their corporate governance is able to anticipate, cope and adapt to risk
4. Include suggestions for how corporate resilience might be considered in a way that fits the circumstances of each individual council

We also wanted to produce a supplementary portion, to go into more detail about the research we have good with the aim of transparency on how the contents of the toolkit have been arrived at. This is that document.

5.   Methodology

The research had two elements. The products of both can be found in our findings section, below.

5.1   Element 1

Element 1 was national research. This involved desktop research to ensure that we fully understood the broad context of sector-led improvement, and conversations with national sector bodies to understand the ways in which national bodies support local councils to address weakness and to improve.

We wanted to use this to test some of the assumptions that we had identified in our earlier research, and to refine the evidence framework for Element 2.

On the basis of our research in Element 1 we built a prototype, which we aimed to test during the case study parts of Element 2, below. Elements of this prototype eventually

formed our framework, the characteristics supporting that framework, and the behaviours which described the characteristics.

Fig 1: Prototype prepared at the end of Element 1. Adapted from Duchek, S., 2019. Organizational resilience: a capability-based conceptualization. *Business Research,* with additions from the Francis report*, Casey report[+], Caller report[±] and the CfPS K&C report[%]

Anticipation		*Coping*		*Adapting*	
Observation	**Preparation**	**Acceptance**	**Solutions**	**Learning**	**Organisational change**
Environment scanning	Recovery plans	Knowing limits	Sensemaking	Reflection	Higher level learning
Picking up weak signals	Simulations	Inviting doubt	Improvisation	Building a knowledge base	New norms, value and practices
Valuing outside knowledge	Building relationships	Understanding the environment	Temporary teams	Learning from experience	Cultural readjustment
Market research	Training	Awareness and acceptance of failure	Informal networks	Day-to-day knowledge exchanges	Change management
Using gatekeepers	Expecting the unexpected	Ensure openness, transparency and candour about matters of concern*[+]	Generating ideas	Learning from the experiences of others	Strategic planning
Connecting with residents[%]	Ensure accountability for leaders and managers*	Assuming responsibility*	Co-ordination	Appreciating the value of corporate memory*	Overcoming resistance to change
Paying sufficient attention to causes for concern*[+]		Sharing concerns with scrutiny[±]	Collective approach	Address past weaknesses[+]	Change agents
Openly measure and understanding performance*			Implementation	Using inspection to learn and improve[+]	A public centred culture* / focussing on what matters[%]
Listening to whistle blowers[+]			Responding to internal and external concerns[±]		Fundamental, shared standards*
Communicating with knowledgeable agencies*					Recruitment, education and training supports the common culture*
Listening to different voices[%]					

5.2   Element 2

Element 2 took a mixed-method case study approach that allowed for the investigation of early warning signs of risks to resilience in governance across five councils (originally we had planned for six). In these five councils, risks led to challenges with governance which required conscious effort to address (with those risks in some cases leading to failure). In all cases, changes in mindset and attitude were necessary to effect improvements.

As with all case studies, the cases were identified and developed to provide a chain of evidence to create a narrative of the event[1]. Because we wanted the work to evidence governance challenge, we selected a couple of councils who had experienced formal and informal intervention, because there was significant documentary evidence relating to their experience (in particular, evidence from external sources such as inspection and oversight).

Case studies were offered anonymity; for more than one, challenges around improvement continue, and we considered that in the interests of candid and frank exchange of views (and to eliminate the possibility that individual interviewees might go on to be identified based on our final findings) it was sensible to offer and maintain this confidentiality for all, despite the fact that a couple of councils were quite willing to speak publicly.

For each area the range of research methods employed to investigate case studies included:

- Analysis of demographic and socioeconomic data to provide a picture of the local population needs;
- Semi-structured interviews to explore the perspectives of key actors. Our aim was to carry out ten or more interviews with people in leadership positions in our case study authorities – now, as challenges were being experience, and in the runup to that happening. As the interview process was drawing to an end the threat of the pandemic was emerging, and as such we did not hit our overall target. In all 42 interviews were carried out;
- Desk-based research consisting of a literature review of governance risk and resilience in a local context and document analysis to develop insights on the lead-up to those risks becoming most apparent. This included:
  - The identification of a point of inflection in each case (where failure, or a particular challenge to governance, became apparent);
  - Analysis of paperwork. We identified a "menu" of documentation which we thought would include a range of internal and external material.

Our original plan was that review of documentary evidence would be an extremely significant component of this work. As we progressed, it became apparent that relational factors – often not carefully documented – were likely to be more important. As such, we reprofiled the research to focus more on the interview element. We ended up focusing on the following key incidents in the life of each case study authority:

- The agreement of the council's budget;
- The agreement of the Annual Governance Statement;
- The agreement of the council's corporate plan;
- The agreement of the council's organisational development strategy (where present);
- Annual reviews of performance, finance and risk data (usually at the end of the financial or municipal year).

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[1] Yin, R.K., 2009. How to do better case studies. *The SAGE Handbook of Applied Social Research Methods*

We also looked at information relating to each council's improvement activities. These included:

- Improvement and recovery plans (either imposed by outside bodies or developed locally);
- Culture change and organisational development plans which have engaged with improvement and recovery;
  Particularly, member activity overseeing, driving and challenging the improvement process.

The case studies were used to test and refine our understanding of the themes common to challenges around risk to resilience of governance. This understanding, and our understanding of the themes and the evidence supporting them, were used as the basis for developing the toolkit.

5.2.1   How we recorded and coded evidence

We captured evidence as standalone "evidence statements", captured via note-taking during activities. A summary note, including key statements, was provided for each activity. Summary notes were coded using QDA Miner, with codes reflecting the principal questions and research topics. Analysis was carried out by the project team. This involved several synthesis meetings. The main synthesis meeting was carried out remotely in March 2020. At this point the COVID-19 pandemic resulted in the final stages of the research being postponed; work restarted in autumn 2020, when we held two roundtable meetings with people from our case study councils to explore and test our findings.

6.   Findings

6.1   Our interim findings from Element 1

6.1.1 Audience

We knew that the product was "for everyone" in the sense that good governance is a collective responsibility. But ownership and leadership are important. As a start, the evidence we gathered suggested that the "golden square" (i.e. the golden triangle of Head of Paid Service, MO, CFO plus the Leader) is the primary group with the responsibility for taking this forward. A product should help these people individually and as a group draw in others and to develop an organisation-wide focus on good governance. As we progressed, we focused on the golden triangle, with political engagement being a strong element of the work that statutory officers have to do. In the final documentation we have described this group as the "principal statutory officers", which we thought was a more descriptive and accessible phrase than "golden triangle".

We concluded that a tool would:

- Provide a framework that will help councils consider if their corporate governance functions have resilient capabilities;
- Describe the behaviours, processes and strategies that might be associated with resilient capabilities;
- Outline the stages of resilience and help councils' question if their corporate governance is able to anticipate, cope and adapt to risk;
- Include suggestions for how corporate resilience might be considered in a way that fits the circumstances of each individual council.

In doing the above, the tool would:

- Be based on a clear intellectual footing and a typology that will make sense to people at a local level (the first draft of which is presented below);
- Consist of a "thinking toolkit" (see below) to take councils step by step through the process of understanding, reviewing, evaluating and deciding on governance improvements;
- In doing so, to suggest possible structural models for ensuring that governance improvement is owned and managed well;
- Focus, therefore, on the early warning signs of failure and how these might be evidence, but also on the steps which can be taken to arrest and resolve those challenges;
- Align to existing support within the sector on corporate matters, particularly from the LGA;
- Reflect on how governance failure feels, not just on its structural components.

The tool would need to provide an analytical framework for people to explore their responses to local practice, and the supplement the existing governance support material provided, in particular, by the CIPFA/SOLACE "Good governance in local government" framework (2016).

The tool would have to be attractive to users, and particularly the users who we want most to use it – those councils who might be at risk but who might not be willing to understand this risk. These councils – which may be defensive, introspective, and which may not take governance seriously in practice (although they may do in the abstract) are in general those that we would expect to be least interested in a tool like this. Attractiveness to this cohort is therefore a particular challenge. Messages might include:

- A focus on resilience rather than risk, or failure;
- A focus on making governance work practically rather than being a barrier to change, improvement or innovation;
- A focus on making decision-making more streamlined, systematic and effective;
- A positive focus overall rather than one which dwells on risks and dangers.

The tool therefore had to:

- Assist in linking people with senior, statutory responsibilities with accurate insights about when challenges and failure occur, where those might otherwise only be apparent to more junior staff;
- Assist organisations to understand where and how aspects of performance that they recognise as being evidence of good, strong governance are in fact evidence of the opposite;
- Recognise that it cannot address the issue of "failure" overall, but that by strengthening areas at governance risk, failure other than specific governance failure can be arrested;
- Not resort to easy answers about the adoption of new structures or the assignment of more resources to "solve" governance problems.

6.1.2   Context and general principles

We concluded that the broad context in which risk happens needs to be factored in as part of the design of a product.

- **Austerity and fiscal pressures.** Overwhelming and sustained pressure on council finances since 2010 has had an impact everywhere, but it has had a particular impact on the strength of councils' corporate cores, with a knock on impact on governance. Fiscal pressures constrain and limit councils' freedom to act, and force tough decisions on priorities which place under pressure the ability of councils to manage demand and need;

- **Demographic pressures.** In different areas, the impacts of an ageing population, a more transient population, poverty, poor health, limited employment opportunities and other features mean that councils have particular, distinctive demand pressures which make forward planning difficult;

- **Geographic pressures.** Geographical isolation and other factors may have an influence;

- **The council's wider role as a convenor in the area.** The extent to which the council recognises or takes on this role may be reliant on the character and nature of this partnership. In some areas strong relationships may exist for historic and other reasons, in others the relationship may be more atomised or antagonistic. Some of this may be within the council's control but much may not;

- **The council's formal governance structures.** For example, Mayoral authorities seem to be proportionately overrepresented in the number of councils needing external support, but how much of this is about Mayoral councils being susceptible to governance failure by virtue of their adoption of this structure, and how much to other issues;uncertainty and risk relating to the above issues. All the above factors will bring with them uncertainty. The extent to which a council recognises this uncertainty and has the resilience to whether it will be critical.

The way that context impacts on risks to good governance will play out differently in every area. This supported our initial contention that it will be difficult to draw together a consistent, national typology which would be able to assist (for example) national actors to make accurate judgements on governance risk in local areas.

Wider contextual factors are also present, including the broader relationship between the council and local people and the general esteem in which the sector is held.

We concluded that we wanted to avoid describing this context as a range of "external factors" because we do not think that a typology which dwells on a notionally external/internal divide for things that can enhance risk is helpful, and not reflective of how modern councils operate.

It was outside of the scope of this project to analyse these contextual factors in detail, but they are likely to play a part in how we encourage councils, using an end product, to "baseline" their understanding of the challenges they face and how they respond to those challenges.

We concluded that some of the features of strong, resilient governance appear to be – at a strategic level:

- Overall, a culture commitment to governance which includes:
  - A recognition of the importance of the "golden triangle" and the role of the Monitoring Officer and CFO in particular;
  - A sense of leadership being a collective responsibility and that elected members are front and centre;

- o A recognition that process is important, but that substance and function should drive the approach to structure and process.
- Strong structures. Structures are only part of the story but having strong structures in place enhances resilience. This includes legally-compliant systems, constitutions and rules of procedure which are fit for purpose, understandable and understood, and other processes which embed some of the cultural practices described in further detail below;
- An understanding (and action on) the various external, contextual pressures that we discussed above. This may include the way that these pressures might impact on the way that people behave;
- An understanding of risk, and a measured approach to risk appetite and risk tolerance. This may include having a nuanced understanding of the risks and opportunities arising from new delivery methods, and will take account of the fact that risks individually and collectively interact in ways that may be unexpected;
- An understanding of the inherent value of a focus on equality and human rights and on how the perspectives of decision-makers can be driven by their subjective experiences;
- A clear sense of roles and responsibilities and in particular the way that members' and officers' roles interact;
- Aligned to the above, strong and positive interpersonal behaviours which reinforce these roles and responsibilities;
- Recognising the importance of corporate memory and taking steps to preserve it.

At a delivery-focused level, further evidence of good governance is:

- Performance which is aligned meaningfully to plans and objectives;
- Plans and objectives which reflect the authority's political priorities and which are informed by information and evidence;
- Information and evidence which is obtained and weighted through a diligent and consistent attitude to research (which includes a logical, systematic and transparent approach to public consultation and involvement);
- Listening and learning to others;
- A council which understands what evidence tells them and what it doesn't, where the gaps are in its understanding and how (and if) it can fill those gaps.

One principal finding emerging in Element 1 which we decided to test further in Element 2 was the sense that in councils which find themselves in challenging situations, and where risk to governance is high, individuals resisting change and improvement are not necessarily acting in bad faith. Generally people will be acting in good faith, thinking that what they are doing is right, and their actions might make sense given the perspective they have and the things which they, and the organisation, thinks are priorities. The challenge lies in, where this groupthink exists, providing for an opportunity for self-reflection and challenge to shift this worldview.

We sought to consider how the absence of these features might be evidenced at a practical, local level. Such evidence might include:

- The growth of "court politics" where senior officers jockey for member endorsement;
- An indulgent, or exasperated, attitude and approach towards scrutiny;
- A weak "golden triangle" – where the Monitoring Officer may be relatively junior, inexperienced and/or may not have a seat at the top table;
- An environment where rules are to be "got around" in the interests of the council being more dynamic, flexible, etc;

- An environment where transformation and reorganisation (and/or the creation of novel delivery structures) are used as a proxy for resolving deep-set problems, or as a panacea;
- Squeezing "unit cost" as a way to drive financial accountability, and/or seeing cost-cutting as a driver;
- Compliance with rules rather than engagement with values;
- An approach where assumption and evidence about prioritisation and risk become comingled;
- An unwillingness to raise problems, or to see problems as anything other than unconnected operational issues with easy resolutions;
- An inability to recognise that certain behaviour and activities are weaknesses, including considering those behaviours as strengths (i.e., disputing the premise);
- A misunderstanding of the extent to which the risk of failure can and should be viewed as a motivator and/or the extent to which failure is seen as a natural part of change and transformation. Associated with this may be misunderstandings about the extent to which risk can or should be transferred to others (e.g. to providers);
- Both committing to, and living, positive working behaviours. A feature of poor governance is where leaders make public pronouncements about their commitment to positive behaviours but act in a different way *without consciously realising that they are doing so*;
- In the context of the above building up a self-image of yourself and your organisation as competent, well-run etc which over time becomes less and less accurate, and using this self-image to be defensive – and doing all of this in good faith

Significantly refined, some of these issues become behaviours and characteristics in the framework we have now published.

Practical research that we carried out suggested that risk and resilience are key elements in understanding how some of the above factors might intersect. The intersection of some of the above factors may not cause governance issues in some councils but may do in others because of underlying structural or cultural weaknesses.

6.2   Our findings at the end of the project

6.2.1   Principles underpinning the design of the final product

When evidence from case studies had been gathered, we were in a position to reflect on our earlier findings and make refinements. We concluded that:

- **Good governance centres on people understanding their roles, the presence of clear systems for decision-making and oversight, a culture of candour and reflection, a commitment to communication within and beyond the council, the use of evidence to inform decision-making and a mature understanding of the role and influence of politics.** We have learned that it can sometimes be difficult to disambiguate good governance from general corporate health;

- **It is possible to set out a framework to guide people on how risks to governance can be identified, and how those risks can be mitigated**. We have chosen to adopt and adapt a framework with academic credibility; one that reflects the evidence we have gathered. It is built around several themes:
  - **Anticipating** – observation and preparation;
  - **Coping (which in the final product we have called "Managing")** – acceptance, and finding solutions;

- o **Adapting** – learning, and bringing about wider organisational change.

- As people "anticipate" through observation of the current state of their governance arrangements, **it is possible to articulate a set of "early warning signs" of possible risk**. In early iterations of our work we speculated that this might provide a "typology of failure". However, for reasons we set out in the sections below, we consider that it is not possible to articulate such a typology in such a way that would have salience across the whole of the sector;

- **There are a range of actions that could be taken in response to these signs, and these need to be decided and acted on locally**. Possible actions vary significantly, and it will be difficult for a product or products to set out what those solutions might look like. By and large, solutions are highly relational in nature and tend to focus on dialogue, the development of a mindset of mutual reflection and challenge, and the better description within councils of mutual roles and responsibilities, including where specific accountabilities lie. A product or products can help to provide a suggested structure onto which these conversations can hang, but will be able to say little about the nature and outcome of these conversations substantively;

- **There needs to be a clear sense of WHO the actors are** who can take these actions individually and collectively, how they can act within the framework more generally, and what we can do to assist them;

- **There is a need to identify HOW possible concerns around risk can be understood and, where necessary, "escalated"** – within, and outside, the council. Tools have to be provided for people to bring concerns about governance to the attention of others within and outside the organisation. This is not the same as whistleblowing, but does raise associated personal risks which will have to be considered;

- **These tools, in order to be effective, will need to sit within the existing sector-led improvement offer**. Presenting a high profile and standalone product or set of tools associated with this work may be counterproductive, because it will present governance as something "set apart" from wider improvement, innovation and productivity.

6.2.2 The design of the framework

We applied these findings to the typology provided in the Duchek-derived framework described above.

We knew that we could not describe this as a "roadmap" for improvement on governance, but a framework the use of which can permit reflect on the presence of mechanisms and cultures to support them through stages of pressure and stress on governance while mitigating some of the risks associated with those pressures.

- **Anticipating**. This is about having strong systems in place to keep a "watching brief" on governance issues, and having the resilience to identify issues at the earliest stage.
  - o **Observation**. This is about keeping the health of corporate governance under continual review. It is about having in place a system of reflection and review

which allows issues to be identified and addressed at an early stage. The "early warning signs" discussed below, and a mature attitude towards them, is a good step towards this. Effective observation requires:

- A communicating culture based on openness and respect, not based on information cascading through rigid management hierarchies (which includes the "early warning signs" discussed below);
- An engaged and involved councillor corps, whose concerns and insights are taken seriously;
- A need to take external reports seriously – including reviews undertaken by the LGA, and external inspection by CQC/Ofsted;
- A particular focus on financial monitoring, and the oversight, monitoring and ownership of risk (financial and otherwise);

o **Preparation**. This is about having the mechanisms in place to respond quickly to concerns about risk and capability. It includes:

- Ensuring that the corporate capacity exists to respond to threats and risks, with clear political and organisational leadership from the top;
- Ensuring that ownership of key corporate action and policies are understood so that action can be taken by the right people, at the right time, and in the right way – supported by certainty and rigour in the constitution and other governance documents;
- An awareness and ownership of good governance across the organisation, supported by regular training and practical conversations (of the type discussed later in this paper);
- Having proper risk management systems in place, including mechanisms for governance concerns to be escalated (as discussed in the sections below);
- Looking to the examples of others in the sector to ensure resilience, including engaging candidly with national sector bodies.

- **Coping**. This is about ownership of weakness and being able to move quickly to identify a problem and then the solutions to resolve it. Although the Duchek paper uses "Coping" as the descriptor, the final material we produced describes this component as "Managing", which we thought sounded more deliberate, planned and proactive.

o **Acceptance**. This is the most challenging element of the framework. It is about the ability of individuals within the organisation and the organisation corporately to understand that weakness exists. It includes:

- Contrition, where necessary, and acceptance of responsibility;
- Listening to those within the organisation (including councillors) voicing concerns and providing the space for those conversations to happen productively;
- Those in positions of responsibility (across the organisation) taking ownership of the issue and expressing a willingness and commitment to change;
- An avoidance of overconfidence, and not underestimating the scale of the challenge;
- Drawing together an awareness at the top of the organisation of issues critical to the business and subjecting them to anxious scrutiny

      – a sense check of whether other weaknesses might exist as yet unrecognised.

- o **Solutions**. This is about moving swiftly to develop plans for improvement. These could be informed and supported by people from outside the organisation, but would always require clear and unambiguous internal ownership. The nature and intensity of actions would be influenced by the seriousness of the risk. It includes:
  - Solutions being brokered and agreed using a "one team" approach driven by a need for inclusivity;
  - Not focusing on a single governance "improvement plan", but recognising that conversation and action addressing behaviours is more likely to effect change;
  - Actively seeking and using external advice but in a measured and proportionate way; not deferring to that advice but using it to construct solutions relevant to local circumstances;
  - Putting in place plans for improvement which are actively acknowledged in the organisation as realistic;
  - Plans having clear, specific individual and collective accountability for specific change, which focuses on behavioural change rather than structural or process change;
  - Effective external and internal communication to accompany the above;
  - Making a conscious break from past ways of working while still taking responsibility for them, and not forgetting the lessons.

  Solutions would need to be framed in such a manner that would be sustainable for an authority which might be under financial pressure, but framed on the point that mitigation of risk is less resource intensive than (potentially) recovery from failure.

- **Adapting**. This is about medium and long term change; a sustainable pace of change and making sure that those changes are resilient, and that they persist through the modelling of positive behaviours.

  - o **Learning**. This is about using the experience of solutions planning to inform longer term change – recognising that improvement is not just agreeing a set of short term actions to provide stabilisation, but is likely to involve more fundamental change. It includes:
    - Continuing receptiveness to external advice, support and challenge;
    - A restatement of the basic principles of leadership, responsibility and clear lines of accountability to ensure these issues are well understood – getting the basic building blocks right;
    - Reflecting and learning on the need to focus and prioritise – as a key factor in good decision-making and in making further governance improvements;
    - Reconnection with partners and the wider public – resetting and taking responsibility for rebuilding relationships, where necessary – building alliances and being prepared for others to take the lead.

  - o **Organisational change**. This is about embedding short term solutions and medium term learning to ensure that a sustainable "watching brief" on risk can be established which can provide early warning of future risks. It includes:

- Investing in corporate capacity, including ongoing capacity to change;
- Having a narrative about change and improvement, how it has happened and how it will continue, which is shared and collectively owned;
- Having the right people (with the right skills) in the right place to both deliver and sustain change and improvement;
- A renewed, and strong vision for the future which aligns decision-making and oversight activity to a corporate plan which confidently reflects local need;
- Having a clear and understood approach to risk appetite, which is followed consistently through the decision-making process and which is understood in how matters are overseen, escalated and delegated;
- Taking these lessons out to the wider partnership, and the wider area – using them to influence how the organisation might need to be redesigned so as to engage better with spaces and responsibilities beyond the "council" as an institution.

6.2.3 Exploring and refining the "early warning signs"

The first element of the framework relates to an identification of what we originally described as "early warning signs", but what we came to describe as examples of positive and negative behaviours which might, individually and collectively, increase or decrease risk.

We developed a range of behaviours which might be suggestive of risk around governance. There are **seven** core features, which have become the seven characteristics of our final product.

For each of these we identified a range of practical ways that people in local areas might evidence these risk signs. All of these relate in some way to relationships, attitudes and values – cultural aspects of the way that councils work – rather than to the presence of systems, processes and structures. Alongside a general articulation of each one we have provided examples of what they might look like in practice. We drafted a set of both negative and positive descriptions.

We considered where "tipping points" might exist, and whether it might be possible to say that if a person looking at this list can point to five or six or seven of these features being present, that would "trigger" some kind of escalation within or outside the council. Reviewing our earlier research (particularly from the case studies) suggested that this was not the case, and that trying to establish a tipping point would both enhance inaccuracy, and contribute to complacency.

Key points we considered included that:

- These features will manifest different in different councils;
- Any given council is likely to display some of these features;
- Different individuals are likely to recognise different features depending on where in the organisation they sit.

These points have informed the way that we suggest that this list of warning signs is used, by whom and under what circumstances. This issue of practical use is covered in the next section. As such we drafted these early warning signs to be illustrative, and most useful in providing a framework or **common language** around governance risk, which can be used to identify points of weakness. It is not, therefore, a checklist.

People involved in acting on the features, and with a role to play in using the framework

People involved in acting on these features will be:

- Officers, individually. Officers at every level of a council must have the ability, through the guidance of a tool engaging with the early warning signs, to reflect on their own experiences and to identify where concerns, for them, may exist;
- Members, individually. As above;
- Officers, as teams. Officers working in teams may choose to use the tool to reflect on their common understanding of where weaknesses may exist, to help them to work more effectively within the organisation and to clarify their collective roles and responsibilities;
- Statutory officers working together – in particular the "golden triangle", comprised of the MO, s151 and Head of Paid Service. This might be expanded to a "golden square" to include the Leader, or even a "golden pentagon" to include the role performed by the statutory scrutiny officer; in the final products we decided to focus on the golden triangle as it is more broadly understood. This group of individuals have both a protective role (for the governance framework) and a role in leadership;
- Officers, in specialisms. Officers with specialisms in areas of particular importance to good governance – lawyers, accountants, governance professionals – may want to consider and share their conclusions across the council to see where weaknesses may be systemic.
- Members, in political Groups or otherwise collectively.
- Senior leadership – the golden triangle, golden square and/or SMT, supplemented by councillors in leadership positions and who could model positive behaviours around governance (this would not be limited to Cabinet).

Within a local area, there will be individuals and organisations with a stake in how the council is governed, and who might be able to share expertise and insights to assist in the identification of solutions, and taking action on them. Part of adaptation and change is likely to involve a recommitment to the world beyond the council – a recognition that the authority will have to play an active role on the local and sub-regional stage.

There will also be support to draw on nationally, from within the sector. In some councils it will be impossible for some of the "group" activity described above to happen effectively. It may be difficult to set aside time in councils which do not take governance seriously; actions to improve governance in organisations with a defensive attitude may be captured by interests which will work against the aims of our work. In the section below on "How", we have highlighted the need for the presence of escalation mechanisms.

In these instances, external support for officers, councillors and councils is particularly important, which is why there must be engagement with national sector support activity.

Sector leadership. As the membership organisation for local government and the organisation principally tasked with sector-led improvement we considered that the leading role in developing and managing insight from this process should sit with the LGA.

Corporate peer challenge (and other peer challenge mechanisms) can test the extent to which individual and group conversations have happened in organisations on matters relating to governance. Principal Advisers and others with improvement service responsibilities can provide support and guidance on these matters alongside their role in gathering insight to support the direction of resources to priority councils. LGA Group Offices

can provide a mechanism for concerns developed by individual council Groups to be added to these insights.

In our view integration of the features and themes of this research into the broader sector-led improvement offer is the best way to ensure that governance is treated as a holistic part of improvement more generally.

Specialist membership organisations. SOLACE, CIPFA, LLG and ADSO are the membership organisations for officers with a particular stake on issues relating to corporate governance. Our work suggests that these professional membership organisations could play a role in supporting those with concerns to raise, and we may wish to discuss with these organisations directly the way that they can support their members to raise concerns, especially if their authority is inclined to be dismissive or hostile to those concerns being dealt with.

Other sector organisations. Other bodies – such as think tanks and consultancies – will probably need to be engaged with, with a view to driving innovation. Part of identifying solutions to risk may lie in thinking differently about how governance may need to work in the future. Sector organisations carrying out substantive research on productivity and innovation are likely to have insights on which local authorities can draw. Failing to draw lessons from innovation in the sector would risk solutions looking traditional, and possibly drawing councils back into a position of weakness.

6.2.4   How we thought people should use the framework

We do not think that tools arising from this research will best sit in a standalone product. We instead consider that they should form a part of the existing range of support around sector-led improvement. Integration with existing support mechanisms is the most important thing. That said, we recognise that it is important that supporting documentary material is produced, and the process for doing that is discussed in the section entitled "next steps".

Evidence suggests that the important thing is being able to provide officers and members alike with a common language to talk about these kinds of risks, and the tools to understand how to take concerns further.

We concluded that the golden triangle should play a central role in ownership of governance improvement, management of governance risk, and escalation of concerns on governance from elsewhere in the organisation. We also concluded that other senior officers would have a critical role to play, and that councillors in "leadership"[2] positions would too.

The oversight of this role can be carried out in two ways:

- By a council's Audit and Governance Committee or another member committee with a specific responsibility and ownership of governance matters;
- By Full Council, through the integration of the work of the golden triangle/square within the Annual Governance Statement, with the AGS providing written accountability to the council corporately on the actions taken to learn and act on any relevant concerns.

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[2] By "leadership" we mean leadership on governance – this would include councillors in prominent decision-making positions as well as those who, by virtue of their responsibilities, have particular ownership responsibilities – chairs of audit committees and scrutiny committees for example.

We concluded that use of the AGS through Full Council was probably the most effective way to ensure this oversight and ownership.

The golden triangle should, we considered, have in place arrangements to assure at least their awareness of conversations on risks to governance happening across the organisation, and actions taken as a result of those conversations. We thought that it should be down to the golden triangle/square to determine how they expect matters of concern to be reported up to them, and how they should manage the prompt and accurate escalation of concerns where they occur. In our final product we have reduced this reliance on the principal statutory officers and sought to put forward a model which recognises the individual, and collective, responsibility of a wider range of members and officers to lead and own these issues.

We considered in detail what might happen where the strength and capacity of those in leadership positions would not allow for the operation of the framework with the rigour that we consider necessary – or what would happen where councils simply decided not to use the framework. For those circumstances we sought to design "bottom up" processes for review, and to signpost to external sources of support.

6.2.5   How action might be taken

We knew that central to the framework was the need to take action *before* problems occur. Action would be taken where risk is seen to have increased – not where the council is on the brink of failure. Improvements may therefore involve making tweaks to systems rather than wholesale reform. This provides a way of ensuring that problems stay manageable and do not continue unaddressed.

The precise nature of the action to be taken depends on the nature of the council's challenges, and the point at which those challenges are addressed. Actions are likely to be behavioural, and will be about the relationships and duties shared by individuals and groups inside and beyond the council.

Predicting the nuances of these issues is difficult. There is no blueprint for risk mitigation, or improvement, around governance. The aim of the product would therefore be to provide a structure for the necessary conversations – setting out who ought to be involved, what issues need to be discussed, how solutions could be identified and their implementation held to account. Deliberately, it has little to say, substantively, about the precise form of those solutions. Hence the products' focus on diagnosis and discussion rather than setting out a clear blueprint for improvement itself. Other products, and support offers, exist for this kind of work, and the material signposts these products.

As such our material was designed to focus on **anticipation** – on understanding and preparing for risk, and using that understanding to develop mature solutions together.

Depending on the possible scale of the challenge this might be the point at which to bring in external actors. This is why framing this work as an integral part of existing sector offers is, we think, particularly important.

7.   Next steps

We are publishing material in the recognition that we will need to refine the framework and its components as it comes to be used.

For this reason we propose to monitor councils' approach to using (rather than "adopting") the framework, and to revisit it later in 2021 to understand whether changes might be made based on councils', councillors' and officers' experiences.

EH

8/3/21