

RISK News

Issue 28

December 2004

Information risks - rights and responsibilities

Information is vital to all of us to enable us to carry out our business and provide services to the public. The public and others also expect that we will provide them with whatever they need to know.

We have a responsibility to:

- keep personal data safe and confidential (Data Protection Act)
- make information available to whoever requests it (Freedom of Information Act)
- maintain operational and other data to prevent interruptions to our business
- use information in a responsible manner

Some of the risks associated with these are discussed in more detail on pages 6 and 7.

The Data Protection Act has been with us for a while now. It places responsibilities on those who hold and process personal data, as well as giving rights to individuals. There are strict regulations as to how information is kept and used and penalties can be imposed on organisations that do not comply.

From 1 January 2005 there will also be the Freedom of Information Act. This legislation will allow people to gain access to information held by public authorities. The aim of the Act is to "promote a culture of openness and

accountability among public authorities" to allow better understanding of how public bodies carry out their duties, why they make the decisions they do and how public money is spent.

While there will be certain exemptions, the main principle will be that we must provide the information requested if reasonably possible, and within 20 working days! If you receive a request for information under this Act, refer it immediately to your departmental contact.



Special features

Page 3 Chief Executive's Trophy

Page 5 Defending claims

Page 9 Dodgy presents

Page 11 Motor insurance FAQs

Comment

Welcome to the latest issue of Risk News.

In this issue we take a look at some of the risks surrounding information; how it is managed or mis-managed, new legislation that will impact on all of us, and how to ensure we can continue to provide our services. This is an area that is becoming increasingly critical to how we operate, from complying with legislation to our new Customer standards.

We have also mentioned a couple of seasonal issues that are topical at this time of year; the effects of winter conditions on our properties and the perils of getting Christmas "bargains".

Finally, we wish you all a happy Christmas and a safe New Year.

If you would like to contribute to a future issue of Risk News, or have any other comments, please contact any of the people listed below.

Contacts:

Risk and Insurance section

Derek Gorrod tel 01603 222989
fax 01603 222683
email derek.gorrod@norfolk.gov.uk

Norfolk Audit Services

Gareth Clark tel 01603 222746
fax 01603 222781
email gareth.clark@norfolk.gov.uk

Risk and Insurance tel 01603 222827
Corporate H&S tel 01603 222912
Norfolk Audit Services tel 01603 222777
Legal Services tel 01603 222961

Production of Risk News

Angie Yeomans tel 01603 223488
email angie.yeomans@norfolk.gov.uk

"Phishing" without a rod and line (just a net)

Well, Internet actually. If you operate an Internet bank account - beware, people are still being targeted by e-mail to confirm their bank details and security codes. Although not yet as widespread as credit card fraud, this type of scam is on the increase, and is known as "phishing".

In the latest scam, you are informed that your bank has noticed that activity relating to your account indicates that other parties may have tried to gain access to the information held there. You are then asked to reconfirm your details via an internet link with the threat that if this is not done in 24 hours you will be responsible for any further unauthorised losses.

Never automatically assume that these notifications, and given contact details, are genuine. If you are ever in doubt on anything to do with your bank or credit card company, use the contact details that are on your account statements. Better safe, than sorry.

Don't risk your life

*You're driving along, your phone starts to ring
Where is it coming from? That Bring! Bring! Bring!
It's down by your feet, right on the floor
Your eyes are off the road, that's dangerous for sure
It's the first mistake, and you've picked it up
You're tempting fate now, isn't that enough?
It's your mate on the phone, you laugh and you chat
You've missed the speed limit, and all signs come to that
You've lost concentration but you're still driving along
You hit the car in front, BANG . . . and you're gone*

A poem by Hannah Killick, aged 13, a winner in a recent Welsh Road Safety competition

Chief Executive's Trophy

This year's Chief Executive's Health & Safety Trophy was awarded to the Department of Finance's Risk Management and Insurance Services section for the Management of Motor Risks.

Each year the Chief Executive's H&S Trophy is given to the team, school, section, unit or department that has made the greatest contribution to keeping people safe and healthy at work over the last year. In a ceremony at County Hall, this year's award was presented to Derek Gorrod, Senior Risk Officer by Tim Byles, Chief Executive.



The scheme is designed to manage and reduce a number of the risks around driving for work as well as enforcing the employer's duties under health and safety. The main element of the scheme is the driver development programme whereby drivers of County Council vehicles, notably leased cars and school minibuses, undertake a practical assessment of their driving skills. The development programme is managed by P&T's Road Safety Unit.

The programme has demonstrated positive results with the number of accidents involving our vehicles coming down, and the costs of those incidents also falling. This not only saves the Council money, but more importantly makes our employees safer while driving at work.



from left to right; Derek Gorrod with Iain Temperton and Bob Clayton (both Road Safety Unit)

As Tim Byles said, "this is a high quality project, individually addressing important health and safety issues in a professional manner with obvious benefits to Council staff."

"The project for managing motor risks will also have positive benefits beyond the workplace and for the general public in Norfolk by improving the standard of driving for a large number of Council staff".

Scam site

An interesting web-site to visit is www.byteclub.co.uk/spamblog where loads of samples of scams are available to view, along with the more traditional form of scam such as "I've discovered a dormant bank account....." or "My parents/family were killed before they could move the money....." etc. Seeing all these differently worded (but similar) scams in one place you appreciate the size of the problem of stopping them in the first place. After all, it must be lucrative, or they wouldn't keep bothering!

Minibus alert – it's the limit!

New laws are being brought in from 1 January 2005 that will affect many of our schools, other operators of minibuses and fleet managers.

From 1 January all new minibuses (those with more than 8 seats excluding the driver) must be fitted with a speed limiter that will restrict the maximum speed to 62 mph. Diesel minibuses first used between 1 October 2001 and 1 January 2005 will need to have them fitted by 1 January 2006 (or 2007 if used solely in the UK).

Older diesel vehicles (pre October 2001) and petrol-engined ones first operated prior to 1 January 2005 will not need to have them fitted. These regulations will also apply to new goods vehicles with a maximum carrying weight of over 3.5 tonnes and diesel-engined goods vehicles first operated from October 2001.

(nice and straightforward then!)

Once fitted there will be two impacts:

- the vehicle will drive differently and all drivers will need to be briefed and perhaps have a trial run before carrying passengers or goods.
- it will now be an offence to drive the vehicle in the outside lane of a motorway in the UK.

Further information and advice is available from Iain Temperton, Senior Road Safety Officer on ext 3362 at County Hall.

Winter weather warning

Once again the cold weather is approaching, bringing the potential for burst pipes. Schools in particular can be vulnerable to freezing temperatures over the Christmas holidays when the buildings are unoccupied for a couple of weeks.

We have seen in the past that significant damage can be caused when pipes burst, with classrooms out of action for several weeks and insurance claims costing up to £20,000 each. Mobile buildings are particularly vulnerable to freezing temperatures and so pipes should be lagged, water inlet systems drained and turned off at the mains, and premises inspected regularly. Damage can be prevented by taking suitable precautions.



In previous years we issued a checklist for site managers to help them avoid problems. This can be found on the Risk and Insurance Intranet and Esinet sites.

Defending insurance claims

The County Council's Insurance section handles all the insurance claims made against NCC. This has involved about 1,000 public liability claims in each of 2001/02 and 2002/03, and just under 800 in 2003/04. Of these, about 400 each year are claims for injuries with the majority arising on the highway.

The Insurance section works with departments to settle any claims as quickly as possible where NCC has been negligent. However, if it can be proved that NCC have not been at fault they will defend any claim made, including going to court if necessary. **This approach has resulted in 80% of highway claims and 87% of non-highway claims being withdrawn by claimants or defended successfully.**

Considering that nearly all legal claims made against us are on a "no win, no fee" basis it would be easy to pay them off early to reduce our handling costs. However this would not only be a waste of public money, and encourage others to try to claim against us, it would also be very demoralising for those hard working staff who have not actually done anything wrong.

Since the beginning of 2004, we have had 9 claims go to trial. Of these, 8 related to personal injury or property damage on the highway. The remaining claim was for an injury to a pupil while at school. All 9 claims were successfully defended and we were able to recover our legal costs.

The most recent case was held in October and was for an injury suffered by the claimant when walking along the pavement. The claimant alleged that she had fallen in a pothole that she had been unable to see because it was raining heavily and it had the appearance of a surface puddle. In court the claimant and her witness accepted that they did not know what had caused the trip and had made an assumption when going back to the location.

We successfully defended the claim on the basis of Section 58 of the Highways Act 1980, which accepts that, as long as we can prove;

- we have a reasonable system of regularly inspecting the highway,
- the defect was not present at the last inspection,
- and Planning and Transportation had not been made aware of the defect,

it is unrealistic to expect a local authority to know about and repair every single defect as soon as they appear.

Another court case in October related to an injury to an "A" level student. The claimant suffered a laceration to his hand in a science class, when fitting a bulb to a glass pipette. He argued that he had not been shown how to do this and that there was a foreseeable risk of injury in allowing pupils to fit the bulbs.

We defended the claim on the grounds that we **had** considered the risk, that his teacher **had** shown him how to carry out the procedure in the previous year and the pupil **had** carried out the procedure on numerous occasions. We relied on evidence from teachers at the school, a representative from our Education Advisory Service and a Director of the Consortium of Local Education Authorities for the Provision of Social Science.

The judge accepted that NCC had considered all the risks and that the risk of injury was actually small. He also found that it was vital for pupils to have experience of assembling equipment and that the claimant had been shown how to do this.

Both these cases show the importance of having good documentation, proper procedures and knowledgeable witnesses. Even though people have been unfortunately injured on our roads or in our premises, it does not have to mean we have been negligent.

Information risks

Business continuity

Information is vital to help all of us run our businesses and provide services to the public. Whether it is historical data such as accounts transactions or incident records, or contact details and client information, it is essential that the information is available to us when we need it. **To assess its importance, ask yourself how you would cope without it?**

Paper based information

Despite all the IT systems and technology in our workplaces, there are still huge amounts of information kept in paper form. The key parts of these need to be protected from damage or loss, such as fire, floods or theft.

Consider:

- Fire proof safes for vital legal documents
- Taking photocopies of important or commonly used information and keeping them in another location from the originals
- Scanning documents into an IT system
- Controlling access to paper records in the same way as for IT information
- Storing documents off the floor if there is a risk of flooding
- Drawing up salvage plans for retrieving key information if possible

IT based information

Consider:

- Taking regular back ups of data if there are no automatic back up procedures
- Keeping back ups in a different location from the original computer
- Operating password control systems to prevent unauthorised access
- Maintaining virus protection

Storage and retention

With the arrival of the Freedom of Information Act now is a good time to review what information we hold, and in what form. Certain information has to be retained for specified lengths of time (in some cases for 75 years!) while other data is only really held for convenience. Disposing of unnecessary information will free up space as well as meaning that it can't be disclosed under the Act.



Freedom of Information Act

From 1 January 2005 things are going to change. If we receive a valid request for certain information we should try to provide the details required. When a request does come in it should be immediately referred to your departmental information officer to ensure that proper procedures are complied with.

It won't matter that you don't want to disclose certain information – if it is not exempt under the Act then we will have no choice but to disclose. This could include contract information. We also will have no right to question why someone wants to know certain details.

Information risks

Email

Email is increasingly becoming one of the main ways of communicating information and documents. While there can be a tendency for 'information overload' sometimes, it is a very easy way to communicate. It is this ease, however, that can potentially lead to problems.

There have been several reported instances of "inappropriate" emails being sent – Norwich Union had to pay out nearly £0.5m a couple of years ago for libellous comments circulated by a member of their staff. There have also been many other examples, normally reported in the tabloids, where private information has suddenly become public.

The County Council's stance is that email must only be used in a manner consistent with normal standards of business conduct and as part of normal job responsibilities. Staff will be subject to disciplinary action for breaching this – people have been suspended in the past for such offences.

Key points to remember:

- Unsolicited messages must not be forwarded
- Do not send messages that are offensive, harassing, obscene or derogatory. Even if you think the message is safe, this does not mean that everyone else will see it the same way
- Do not send confidential information over the internet
- Only ever put in an email what you'd be prepared to put in a letter
- The Council's email system is monitored

Internet

As with the email system, the internet should only be used at work in a manner that is consistent with the Council's standards of business conduct and as part of your normal job responsibilities. Appropriate private use is allowed, but only before you start work or after you have finished.

Access to the internet is monitored and the Council keeps an audit. Misuse of the Council's systems can lead to disciplinary actions.

All the usual precautions that you would take at home regarding virus protection, downloading attachments, accessing inappropriate sites must be followed at work, but more strictly.

Viruses

Viruses can cause significant damage and disruption to computer systems and data, as well as significantly disrupting the provision of services. The County's networks are protected by firewalls and anti-virus software but that doesn't mean that we can be complacent. Items could still get through.

Tips for avoiding viruses

- Do not load any of your own software or games onto Council equipment
- Do not transfer files between personal equipment and Council equipment
- Do not open attachments on unsolicited emails
- Keep anti virus software up to date – this should be a weekly update if using non-networked equipment
- Any suspected viruses should be reported to Charles House Services (tel 01603 495800)

Trading Standards department

Trading Standards is a County Council based enforcement body responsible for regulating the trading activities of businesses in Norfolk. Trading Standards enforces legislation covering many key aspects of trading activity, and thereby helps to protect consumers from risks, including:

- Descriptions of goods and services e.g. counterfeit products, car clocking, brochure misdescriptions and false statements.
- Pricing and Credit Controls – including misleading price indications, price marking, credit advertising and credit provision.
- Food Safety – compositional and labelling standards in food including nutritional claims, misdescribed food products.
- Product Safety – the safety of all consumer products including toys, electrical equipment, upholstered furniture etc.
- Animal Health and Welfare – animal health controls including licensing declarations, rabies.
- Weights and Measures controls – both equipment and goods.

They also undertake:

Business Advice - advising all Norfolk-based businesses about legislative compliance – the emphasis is on prevention to safeguard the public and to maintain a fair and equitable trading environment.

Market Monitoring - undertaking project planning activities to review compliance in key trade or product sectors. This involves visiting premises on a risk assessment basis, examining and testing goods, and taking action where problems are identified.

Consumer Advice - advising consumers in Norfolk and intervening where appropriate. This includes advising the trader, assisting the trader and legal action where necessary.

Metrology – inspecting and testing weighing and measuring equipment in trade use. This would include petrol pumps, weighing equipment in shops and factories, beer and wine measures. Goods are tested both at retail and factory level to ensure that the quantity marked is accurate. They also provide a high accuracy UKAS accredited calibration service for weights and weighing machines.

Help them to help you

- They need information on traders known to be involved in activities falling within Trading Standards remit, e.g. car clocking, product counterfeiting etc.
- Contact number **0844 800 8013**.

Dodgy presents

As we approach Christmas there will be many opportunities for you to part with your money, buying gifts for others or items for yourself. But will you always be getting what you expect?

Beware of traders offering 'bargains'. Car boot events and 'one day sales' can have their fair share of counterfeit or misdescribed products at the best of times but it's worse around this time of year. A fake DVD or CD may not play very well but it won't cause you harm. A fake electrical tool or unsafe gadget could put you in hospital and unsafe toys or fake perfume might injure children or cause skin problems.

Your rights as a consumer at a temporary market or car boot sale are basically nil. It is

unlikely you could take the item back as the seller probably won't be there and you won't know their name or address. The old adage of "buyer beware" is still very good advice.



Also remember that counterfeiting is theft. Many of the dealers are often linked to other criminal activities so supporting them could be putting others at risk.



Tis the day before Christmas and all through the house
Not a creature is stirring, not even a mouse

And not even Santa! The elves have taken a hike
The factory's in ashes and Rudolph's on strike,
Bob cannot fix it - which means Mr Claus
will deliver NO presents to me, you or yours



So.. when you find sweet nothing
under your tree
you'll wish that he'd had

Business Continuity



Driving tired



Driving is the most hazardous work activity that most people undertake.

Research shows that around 20 people are killed and about 250 people are seriously injured every week in crashes involving someone who was driving, riding or using the road for work purposes. Tiredness is a factor in around 10% of all vehicle crashes (20% on motorways).

In a recent survey of 1000 motorists by road safety group Brake and breakdown service Green Flag, 45% of drivers said they had taken to the wheel after less than five hours' sleep. 10% say they do this at least once a month.

Research by experts at Loughborough University's Sleep Research Centre suggests drivers have only a 10% chance of staying fully awake on a long journey after little sleep.

At present there are no laws that require car drivers to have a certain amount of rest or sleep before taking to the wheel. (There is for heavy goods vehicle drivers). However legal changes mean motorists now face much stiffer penalties if they cause an accident while tired.

To avoid the risk of driving when tired:

- Never drive if you feel exhausted.
- Ensure you get enough rest or sleep before a long drive.
- Take a break of at least 15 minutes every two hours and account for these breaks when planning your journey time.
- Stop sooner if you begin to feel tired.
- Remember - winding down the window or turning music up loud **will not** prevent tiredness.

Car crime bill costs £1.1bn

Most drivers do nothing to prevent thieves breaking into their cars, according to research by Autoglass.

The report, Cracking Car Crime, reveals that the UK's car crime bill has soared by almost 40% in the past 12 months, costing insurers and drivers £1.1bn in damages. Despite this, 53% do not have a car alarm and 49% of victims admit they have not changed their habits in any way since being robbed.

Frequently asked questions

Motoring insurance issues

Damaged vehicle

- Q.** I am a teacher in one of the County's schools and recently my car was damaged during the school day while parked on the school site. I do not know how the damage was caused or who did it. Can I claim from the County Council's insurance?
- A.** No. Schools' insurance does provide cover for employees personal possessions brought onto the school site for up to £250. If they are brought on for educational purposes, they are covered up to £750. Private vehicles are not included in these categories. Your only realistic option is to claim from your own private motor insurance.

Diabetes

- Q.** I regularly drive a County Council insured minibus and have recently been diagnosed with diabetes. Am I still insured to drive the vehicle?
- A.** You will be insured if your doctor and the DVLA are happy to permit you to hold a suitable driving licence. Serious medical conditions should be reported to the DVLA and you should consult your doctor who will advise you. The type of diabetes and how you control it, all have a bearing on the eventual decision.

Pool car

- Q.** I am going away to a conference next week and need to use a Pool car. Are there any conditions?
- A.** Yes. You will need to pass the Council's Driver Development Training. This can be arranged through the P&T Road Safety Team (tel 01603 223361) and your department should fund the training.

Laptop

- Q.** I am an employee of Norfolk County Council and I recently took my laptop home to do some work. On the way home, I stopped to do some shopping, and the laptop was stolen from my car. Is it covered?
- A.** No. Theft of the laptop will not be covered if it's been stolen from an unattended vehicle.

School trip

- Q.** Our school is going on a trip next week and a parent has volunteered to drive our minibus. Will they be covered?
- A.** The parent will be covered if they are acting as a volunteer for the school, providing they have passed the Norfolk County Council Driver Development Training, they have no more than 6 points on their licence, and they have the necessary D or D1 category on their licence.

If you need this newsletter in large print, audio, Braille, alternative format or in a different language, please contact the Helpline on 01603 223488 (minicom 223833) and we will do our best to help.





Risky business

Proceeds of crime - Don't contribute

A warning has been issued regarding official-looking letters being received in some parts of the country asking for money. They claim to be from the "Anti-Money Laundering Support Team", and originate from the Crewe area.

The letter claims to be a Final Notice, demands payment of £75 per employee and gives the implication that if you fail to register with the training scheme you will commit a criminal offence. Sections of the "Proceeds Of Crime Act 2002" are quoted to give credence to this, leaving the recipient with the impression that it is a legal requirement to register.

The police are treating the case as one of advance fee fraud and investigations are ongoing.

Occupiers' liability

Recent cases have reinforced the law on occupiers' liability, confirming that there is no duty on an occupier to warn

of obvious dangers. Liability is unlikely to be imposed on an occupier where injury is caused by a person taking obvious risks.

Stolen car warning

Police are warning car buyers to be on their guard against stolen vehicles being sold with counterfeit log books. Officers believe that stolen 4X4s and commercial type vehicles are being offered for sale in the Norwich and Norfolk region.



A batch of blank log books were stolen from the DVLA some time ago and these are now being used to sell on these stolen vehicles. All the log books start with AP, which can be found in the top left hand corner of the old-style books.

Police advice is that if you are looking to buy a car, and the seller offers a log book starting with AP it is probably stolen.



Do not buy the vehicle and then contact the police urgently. Alternatively, contact Crimestoppers on 0800 555111.

eBay warning

Internet auction site eBay has warned users about a new scam.

The site said crooks had been trying to trick users who lost out in online bids in what has become known as the "second chance" con. Those behind the fraud will contact the user through their eBay user name, often claiming to be the original seller. They then offer an alternative to the item they failed to secure but which never exists.

And finally . . .

An Austrian teenager who robbed a tobacconist was caught after he complained to his mother that a photofit picture of him was a bad likeness.