



Risk Management

Can Risk Be Managed?

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Lockton LLP – Proud Partner to CICES

Chris Lennon – Head of Office & Senior Vice President for Lockton Companies LLP

- Chris heads up Lockton's Bristol office, having previously held senior positions with HSBC and Towergate insurance brokers. With 15 years' experience in insurance broking, Chris has specialist knowledge of broking Commercial Insurances. He has a particular interest in more complex risk appraisals and reviewing Corporate Risk Portfolios.

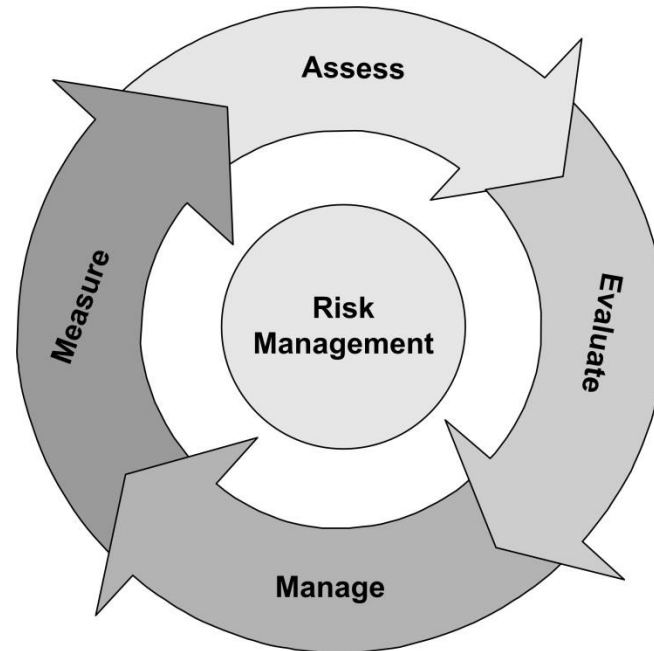
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Risk Management – What Is It?

Definition:

- **Risk Management** is the identification, assessment, and prioritization of risks (defined in [ISO 31000](#) as the effect of uncertainty on objectives, whether positive or negative) followed by coordinated and economical application of resources to minimize, monitor, and control the probability and/or impact of unfortunate events or to maximize the realization of opportunities.



What Does Risk Management Look Like?

- Identification of risk
- Planning the process.
- Mapping out the following:
 1. the social scope of risk management
 2. the identity and objectives of [stakeholders](#)
 3. the basis upon which risks will be evaluated, constraints.
- Defining a framework for the activity and an agenda for identification.
- Developing an analysis of risks involved in the process.
- Mitigation or Solution of risks using available technological, human and organizational resources.



Where Applied

- Physical Securities – Locks, Alarms, Perimeter fencing, CCTV, Guarding etc
- FireSuppressions – Alarms, Evac procedures, FEA's, Training
- BCP/DCP – Testing & Contingencies
- Data – Back-up, VPN's, Cloud, Anti-Virus, UPS, Co-location
- Operational – Staff Training, PPE Issue, Tool-Box Talks, UGS Investigation, Use of Plant/Machinery, Workstations, Staff Recruitment & Induction, Employment law
- Financial – Money laundering, Misappropriation of Funds, Tax, Insolvency & Credit Risk, FX

Can Risk Really Be Managed?

- Risk is inherent in everything we do. It is present every time we interact with people and in every area of business we transact.
- Risk can be managed no more than time can.
- What is important is that we are aware of the risk and aware of what can be controlled and what can be transferred.



So What Does Risk Management Look Like, Really?

Form Filling?

We are enduring a period of legislative review, the following are all recent examples

- Risk Assessments
- Underground Services Investigations/questionnaires
- Permits To Work
- PPE Issue & Recording
- RIDDOR
- COSHH
- Working Time Regulations
- Working At Height Regs
- Fire Risk Assessments
- Asbestos Surveys
- AWR & Employee Discrimination
- Auto-Enrolment



Evolving Risk:

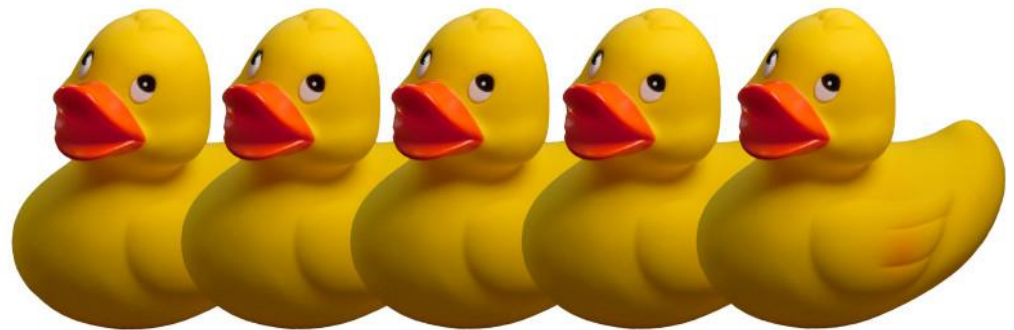
As technology and commerce change and evolve so do the risks we face. Today in business, we need to be mindful of exposure to loss and allegations of wrong doing in every facet of our business

- Cyber/IT Risks
- Data Protection
- Financial Crime



Risk Control – Getting Ducks In A Row

- System Compliance
- Employment Procedures & Documents
- Risk Assessments
- Permits To Work
- Contractual responsibility – Hold harmless/subrogation waivers
- Common duty holders
- Fire prevention and suppression
- Physical Security
- IP & IT Security



Liabilities Of The Individual

Exposure to risk is no longer just a business concern as individuals we are often exposed to risks from our professional endeavours, sometimes unknowingly:

- As a Director or Officer (Manager/Supervisor) – You can be personally liable for prosecution and civil action as a result of alleged wrong doing in your professional life and your liability if pursued is UNLIMITED!
- Exposure typically comes from allegations of wrong doing in respect to;
 - Breach of Health & Safety Policy
 - Financial Mismanagement
 - Employment Law



Breach of Health & Safety Policy

- Directors &/or Officers are increasingly being named as second defendants in the event of personal injury due to Phoenix Companies avoiding liability
- Legislation is becoming more and more rigorous and onerous
- No Win, No Fee compensation culture has resulted in a significant increase in litigation
- Corporate Manslaughter Prosecutions are now very real



Corporate Manslaughter and
Corporate Homicide Act 2007

Corporate Manslaughter – Cotswold Geotechnical Holdings

- Alex Wright was 27-years-old when he died on 5 September 2008. He was a geologist for Cotswold Geotechnical Holdings and was investigating soil conditions in a deep trench on a development plot in Stroud when it collapsed and killed him.
- Mr Wright was left working alone in the 3.5 metre-deep trench to 'finish-up' when the company director left for the day. The walls of the trench collapsed and a surge of soil buried Mr Wright completely. Mr Wright died of traumatic asphyxiation.
- Mr Peter Eaton, Director of Cotswold Geotechnical Holdings, was prosecuted under the Act and charged with the unlawful killing by gross negligence.
- The Company Was Fined £380,000

N.B. Fines can NOT be covered by any insurance

Financial Mismanagement

Claims can arise from allegations, irrespective of how spurious and incur costs!

e.g.

- Shareholders pursue directors for loss of share value due to “Alleged” negligent management



Employment Law

- Actions can be brought against both the business and the individual as a result of allegations of;
 - Bullying
 - Harassment
 - Discrimination
- Procedure dominated environment
- Career Claimants



Risk Transfer

- Insurance is the most common risk transfer mechanism but buying insurance does not absolve an individual and/or business of responsibility
- Systems and process require an investment of both time and money and often both are in short supply

What is more important to a business owner, having the best processes and systems in place or knowing that all liabilities are covered and requirements met?

I suspect both.

Solutions

- Properly managed insurance program which keeps pace with business evolution
- Directors & Officers Liability Insurance – affordable blanket protection
- Support with Health & Safety compliance – periodically updated
- Support with Employment Law compliance – periodically updated

Brokers and insurers can provide electronic portal systems which provide documents and process/procedures to assist with the above.

Q&A Session with Nicolas Oldham Partner for Mills & Reeve LLP

Nicolas is a Partner for Mills and Reeve LLP a top 50 Law Firm.

Nicolas specialises in [professional negligence](#) claims and over the last 20 years, has specialised in dealing with claims against [construction professionals](#).

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Cover:	Contract works	Public liability	Professional Indemnity
Type of policy:	<ul style="list-style-type: none"> ○ Employer or contractor – single project all risks ○ Contractor annual – all risks 	<ul style="list-style-type: none"> ○ Employer or contractor – single project all risks ○ Contractor annual – stand alone or all risks (often with Product Liability) 	<ul style="list-style-type: none"> ○ Contractor or consultants – annual and stand alone (usually)
Trigger for indemnity:	<ul style="list-style-type: none"> ○ Physical damage to the works (e.g. by flood / fire etc) occurring prior to completion or during the defects period ○ (Inherent defects i.e. design / workmanship excluded but cover written back to varying degrees) 	<ul style="list-style-type: none"> ○ Legal liability to pay damages to a third party ○ Accidental loss or damage occurring during policy period ○ (Design excluded) 	<ul style="list-style-type: none"> ○ A claim (or potential claim) arising from provision of professional services ○ Claims made during policy period ○ (Workmanship excluded)
Categories of loss covered:	<ul style="list-style-type: none"> ○ The cost of reinstating / repairing damaged works ○ Walks the plank (i.e. indemnifies first even if another policy could cover the loss) 	<p>Third party claims for:</p> <ul style="list-style-type: none"> ○ Damage to existing structures ○ Damage to third party property ○ Death and bodily Injury ○ Financial losses consequent upon physical damage 	<p>Third party claims for:</p> <ul style="list-style-type: none"> ○ Damage to or defects in the works ○ Damage to existing structures ○ Damage to third party property ○ Personal Injury ○ Consequential and financial losses <p>(Plus mitigation costs incurred to avert a claim under the policy - D&B cover only)</p>
Categories of loss not covered:	<ul style="list-style-type: none"> ○ Repairing inherent defects in the works ○ Damage to existing structures ○ Damage to third party property or personal Injury ○ Consequential or financial losses 	<ul style="list-style-type: none"> ○ Damage to or defects in the works ○ Pure financial loss (unless there is a financial loss extension) ○ Claims covered by other insurance 	<ul style="list-style-type: none"> ○ Pricing risk (i.e. increased costs caused by errors in calculating the tender price) – D&B cover only ○ Claims covered by other insurance

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Our Goal

To be the best place to do business and to work



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