

Taking chances with risk

Objective and scope

Advising is an inherently risky business. It's highly unlikely that you will have complete knowledge about how things may work out in future. Identifying and mitigating risks is therefore a crucial element of any advice paper.

This note offers ideas about the types of risks you need to consider and how they can be reported.

If there is a chance that things may not turn out as expected, then you have risk

In its simplest form, risk in the development of advice is concerned with the likelihood that things don't turn out as expected. Three key concepts that are relevant here:

- **Probability or likelihood** – what is the probability that something different from expected occurs?
- **Scale or impact** – if something different happens, what are the implications? How substantial is the risk? Can the potential impacts be quantified?¹
- **Mitigation strategies** – what can be done to manage the risk? Do the mitigation strategies manage the probability of something occurring or the impact of it occurring? And what is the residual risk once the management strategies have been applied?

But remember, as Samuel Johnson said:

“Nothing will ever be attempted, if all possible objections must be first overcome” (Rasselas, 1759).

The trick here is identifying the risks, and how they can be managed, and balanced with the outcomes you hope to achieve, not seeking to eliminate them altogether.

Consider both sides

Risk can be positive or negative. In general policy practice, risk tends to refer to the negatives. But do remember that things can work out better than expected. You need to explicitly cover off the risk of this happy eventuality as well.

There can be a tendency to optimism bias – few analysts want to be too conservative, especially when bidding for funding. (Treasury (2015) has built allowance for this into their Better Business Case guidance, so is clearly expecting that advisors might be overly positive about the expected outcomes.) You can counter this bias by good risk assessment.

Identifying risk is a critical part of providing quality policy advice

Our framework for assessing the quality of advice has an explicit risk and mitigation consideration.

This requirement stems from the long-standing tradition of 'free and frank' advice within central and local government. It is enshrined in the State Sector Act 1988 (s32) as a key responsibility of Chief Executives in the public sector. It also implicitly applies to local government – and is provided for in the Local Government Official Information and Meetings Act 1987 where s7 (f) notes it as a specific reason that may be used for withholding information.

The Cabinet Office manual states that “During the policy development process, the advice given by officials should be free and frank, so that Ministers can take decisions based on all the facts and appreciation of all the options” (Principles of Public Service 3.52; Cabinet Manual, 2008). This equally applies in local government.

Section 77 of the Local Government Act 2002 requires that the advantages and disadvantages of options be explored and considered – risks associated with the options come under this umbrella.

This means stepping up to the plate

This can be a tricky business – especially when a mayor or group of councillors have a pet project to promote. Or, when it is in the public domain i.e. a meeting open to the public as opposed to a closed session or a workshop.

But there are ways and means of delivering hard news, and the best advisors find a way through. The consequences of not doing so can be very painful for both officers and councillors if something goes publicly wrong in future.

¹ The product of the probability and the potential impact is the 'expected value' of that occurrence. This can be useful as a concept in any cost-benefit analysis considerations.

The Productivity Commission report “Towards Better Local Regulation (2013)” made much of the need to fully assess the implications of regulatory proposals and implementation issues in decision-making (page 75 describes the shortcomings they found in relation to the full assessment of options and associated risks in regulatory design).

Do the analysis; reflect the results in the paper

We don’t expect to see a full risk analysis in standard advice paper, whether it be a paper for Council or a Council sub-committee.

This would make the paper far too long and it could lose its impact and utility.

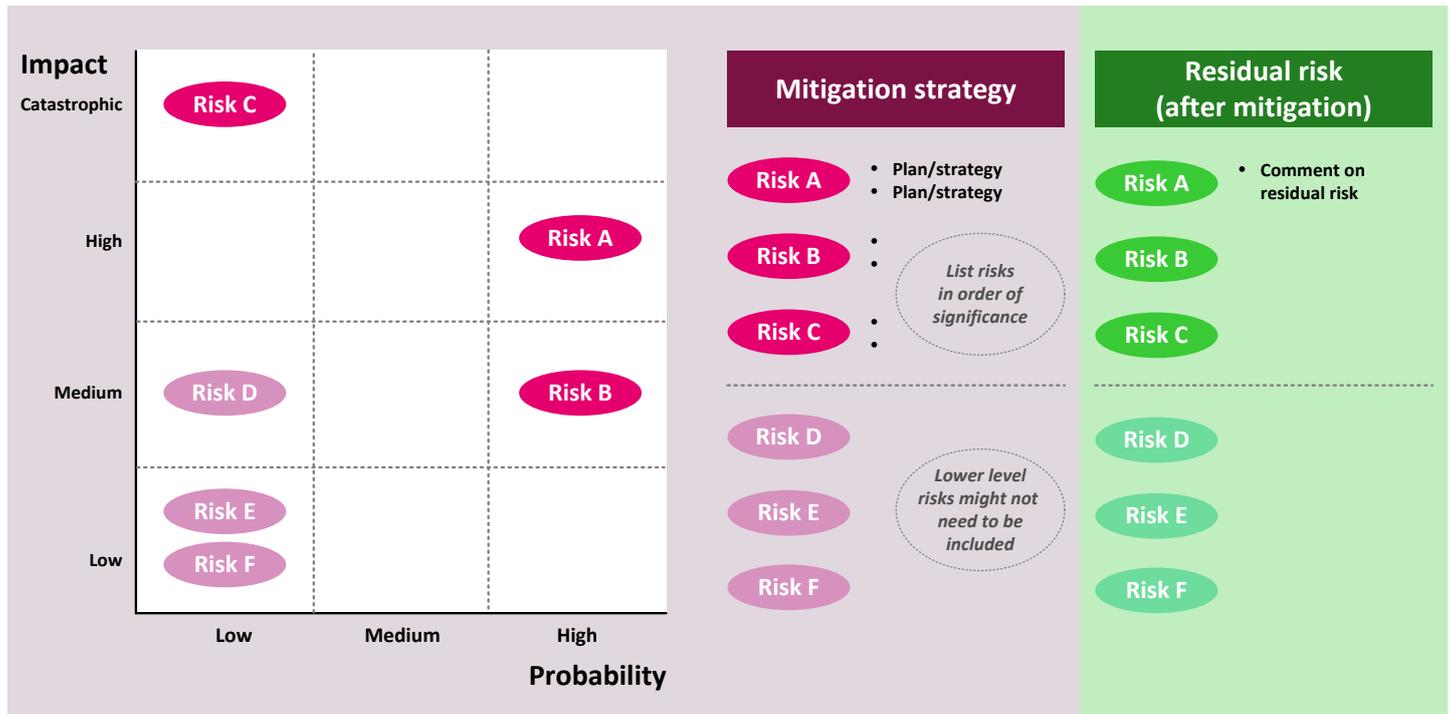
But we do expect an analysis of risk to have been performed, and the results presented in the paper. By this we mean identifying, discussing and mitigating the significant risks, not running through the full range of risks considered in the analysis.

However, it may be that you present a more detailed risk assessment in a Council workshop.

A simple risk assessment framework

Figure 1 Risk assessment framework

Identifying, assessing and developing mitigation strategies



Source: NZIER

Steps for the analysis

Step 1: Identify risks – this can be based on your knowledge of the issues, modelling, financial assessment, the results of any consultation or engagement, pilots. etc., and/or brainstorming with your colleagues. The aim is for the coverage to be complete – to have all significant types of risk included.

Step 2: Assess the probability and impact of each risk.

Step 3: Develop mitigation strategies for the more significant risks – consider whether modifications to the proposal could address risks or would alternative options be less risky. We discuss stakeholder engagement and communication strategies later – these are often used as mitigation tools.

Step 4: Identify the residual risk, after the mitigation strategies are applied.

Step 5: Write up the analysis, and include it in the paper – remember you might need to summarise the main conclusions in other parts of the paper e.g. Executive summary, talking points, recommendations.

There are many types of risk

The kinds of risks you will need to think about will depend on the sector you are operating in and the nature of the policy advice.

But here are some common ones:

- **Financial** – is there potential for costs to be different to what is expected? And how will this impact on budgets? And ultimately on rates?
- **Legal** – is the proposal consistent with legislative requirements e.g. Local Government Act; RMA; other legislation governing Council practice in an area (Dog Control Act 1996; standard legislation governing all activities e.g. Human Rights Act, Privacy Act, common law principles, etc.)?
- **Environmental** – what are the short-term and long-term potential impacts on the environment? Are there local government regulatory matters that need to be considered?
- **Impacts on other local authorities** – how will the proposal impact on priorities, work programmes and/or service delivery of other local authorities e.g. those nearby, or those with overlapping of interests? Is the issue covered in any triennial agreements? What about impacts for any Council controlled organisations?
- **Impacts** – how will the proposals impact on individuals, firms, NGOs, regions, household types, etc.? Are there winners and losers?
- **Stakeholders** – what are the views of different stakeholders about the proposals? Noting that these may differ from a strict winners-and-losers' analysis mentioned above or involve interested observers as well as those directly affected.
- **Media/communication** – is there media interest in the proposals? What's the communications plan for informing interested parties about the changes?
- **Implementation** – How complex is the implementation? Are there timing issues? What level of staff, IT and service delivery changes are required and will other work streams have to be de-prioritised?
- **Iwi relationships/Treaty of Waitangi** – how does the process fit with s81 of the Local Government Act? And your own policies and relationship agreements with local iwi?

If there are no major risks, then say so

Often in a paper we see absolutely no mention of risks. This leaves the reader unclear as to whether there are no risks; or whether a risk assessment hasn't been done.

So, if you've done a risk assessment, and there aren't any risks, then be clear about that in the paper. This provides reassurance to decision makers.

Don't go too far

Advising about risks, especially those of a policy project close to the mayor or a particular group of councillors' heart/s, can be a tricky business. Nonetheless it is still incumbent on policy officers to do just that.

Stick carefully to the facts, and make the presentation of risks clear, and unemotive.

Occasionally we do see papers where it's very clear the council officers are actually opposed to the advice, as evidenced by a very long list of downsides and risks repeated and embellished throughout the paper.

Don't labour the point (especially in papers in the public domain). It burns relationship capital in what is a repeated game. Provide free and frank advice, coolly highlight the key trade-offs, and move on.

Councillors may very well have different views to those of the officers. That's OK – it's their job. They may have other priorities in mind, or weigh the benefits and risks differently.

Involve stakeholders

Providing advice on more complex issues also brings further complications and risks. Different stakeholders may well have different views as to how things are likely to turn out. That is, they have different views on the probability of an adverse or positive event occurring, and its likely impact.

Having a greater understanding of stakeholder views of policy options is an excellent way to manage risk. It:

- Helps you and Councillors identify and understand the issues of greatest importance.
- Improves the quality of your evidence base and the advice you provide.
- Improves the likelihood that the policy will be successfully implemented.
- Provides support for Councillors in communicating the policy decision.

Of course the public consultation processes that local authorities are required to undertake provide a solid evidence base for decisions on the long term plan and RMA decisions, for example. In addition, in the papers we review we have seen many cases where stakeholder views on specific decisions are well explained, based on early, broadly focussed consultation processes.

We see more local and central government agencies (and indeed commercial firms) undertaking co-design processes to gain in-depth stakeholder input on policies and programmes.

These are often built from market research type disciplines and approaches e.g. the Auckland Co-Design Lab which is a collaboration between the Auckland Council and the Ministry of Business, Innovation and Employment.

Being able to provide this sort of advice to Councillors not only aids the decision-making process, but also assists Councillors to manage future communications or media issues once the policy decisions are made public.

It's not always possible to meet the gold standard due to time constraints, the need for confidentiality and so forth. In those cases, officers will need to rely on varied sources to identify stakeholder issues and risks.

These might include:

- Good working relationships with key stakeholders where ideas can be tested informally.
- Less formal consultation or engagement processes like focus groups.
- Previous stakeholder comment on the same or similar issues.
- Information produced by stakeholders e.g. media statements, information on websites, media articles, your own social media or that of stakeholders, etc.
- The contacts of individual Councillors and the views expressed to them in the run up to major decisions being made.

Ensure you cover off risks in the Executive Summary

Make sure there is a nod to risks in the Executive Summary. An Executive Summary is meant to capture the essence of the paper and support the decision maker. Risk is important – so make sure it is in there.

Of course, sometimes the Executive Summary is the only part of the paper that is read (or used as a refresher), so the key risks and their mitigation strategies need to be covered in it.

Other useful material

Auckland Council and Ministry of Business Innovation and Employment (2016) Co-design lab website <http://www.aucklandco-lab.nz/>

Ministry for the Environment (2011) Professionalising Policy: Cost Opportunity Benefit Risk Analysis: The COBRA Policy Guide, <http://www.mfe.govt.nz/more/about-us/enhancing-our-policy-advice> – a general guide on policy advice, including a discussion of risk (p. 14, p. 49-52).

Productivity Commission (2013) Towards better local regulation <http://www.productivity.govt.nz/inquiry-content/1510?stage=4>

Treasury (2013) Regulatory Impact Analysis Handbook, <http://www.treasury.govt.nz/regulation/regulatoryproposal/ria/handbook/> – the PIRA Template contains a list of risks that need to be considered in regulatory proposals – this is a good starting point in identifying risks and can be easily adapted for local government.

Treasury (2015) BBC (Better Business Case) Guidance www.treasury.govt.nz/statesector/investmentmanagement/plan/bbc/guidance – information on optimism bias is included in the Project Business Case methodology.

This paper was written at NZIER, February 2017.

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