

**Cheltenham Borough Council**  
**Audit Committee – 20 September 2017**  
**Counter Fraud Unit Report and**  
**Council Tax, Housing Benefit and Council Tax Support**  
**Penalty and Prosecution Policy**

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| <b>Accountable Member</b>       | Cabinet Member Corporate Services, Councillor Roger Whyborn  |
| <b>Accountable Officer</b>      | Paul Jones<br>Chief Finance Officer<br><a href="mailto:Paul.Jones@cheltenham.gov.uk">Paul.Jones@cheltenham.gov.uk</a>  |
| <b>Report Author</b>            | Emma Cathcart<br>Counter Fraud Manager<br>01285 623356<br><a href="mailto:Emma.Cathcart@cotswold.gov.uk">Emma.Cathcart@cotswold.gov.uk</a>   |
| <b>Ward(s) affected</b>         | All indirectly   |
| <b>Key/Significant Decision</b> | No   |
| <b>Executive summary</b>        | <p>The purpose of the report is to provide the Audit Committee with assurance over the counter fraud activities of the Council.</p> <p>Work plans for 2017/2018 have been agreed with the Chief Finance Officers and Senior Leadership Team. Work is now underway. The Audit Committee is asked to consider and comment on the work plan as the body charged with governance in this area.</p> <p>The Counter Fraud Unit will continue to provide Audit Committee with direct updates biannually.</p> <p>This report also presents Audit Committee with a draft Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy, on behalf of the Revenues and Benefits Teams and as part of the consultation process. The policy will assist with decision making in the application of appropriate sanctions and provide a uniform basis for action across the County.</p> |
| <b>Recommendations</b>          | <p><b>That the Audit Committee:</b></p> <ul style="list-style-type: none"> <li>a) Notes the work plan and comments as necessary.</li> <li>b) That the Audit Committee consider the Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy to comment thereon to Cabinet, to aid its deliberations and decision making.</li> </ul>   |

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| <b>Financial implications</b>  | <p>The report details financial savings generated by the Counter Fraud Unit.</p> <p>The Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy will generate fines for further prevention work.</p> <p><b>Contact Officer: Paul Jones, S151 Officer</b><br/> <a href="mailto:Paul.Jones@cheltenham.gov.uk">Paul.Jones@cheltenham.gov.uk</a></p>   |
| <b>Legal implications</b>  | <p>The legislation to be utilised by the Counter Fraud Unit and other service areas within the Council is identified within the Policy.</p> <p>In general terms, the existence and application of an effective fraud risk management regime assists the Council in effective financial governance which is less susceptible to legal challenge.</p> <p><b>Contact officer: Vikki Fennell, One Legal</b><br/> <a href="mailto:Vikki.Fennell@tewkesbury.gov.uk">Vikki.Fennell@tewkesbury.gov.uk</a></p>  |
| <b>HR implications (including learning and organisational development)</b> | <p>The work plan at Appendix 2 outlines various employee training sessions that managers will need to release employees to attend.</p> <p>The plan also outlines a need to engage with HR on with reference to internal investigations, the disciplinary referral process and the process for staff declaration forms.</p> <p>Any changes to the above will also need to be cascaded to managers and employees.</p> <p><b>Contact officer: Julie McCarthy, Strategic HR Manager</b><br/> <a href="mailto:julie.mccCarthy@cheltenham.gov.uk">julie.mccCarthy@cheltenham.gov.uk</a> 01242 264355</p> |
| <b>Key risks</b>   | <p>If the Council does not have effective counter fraud and corruption controls it risks both assets and reputation.</p> <p>The Council requires a Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy to ensure legislative powers and regulations are applied fairly and in accordance with the law.</p>   |
| <b>Corporate and community plan Implications</b>                           | <p>In administering its responsibilities; this Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor. The Council is committed to an effective counter fraud and corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities, thus supporting corporate and community plans.</p>  |
| <b>Environmental and climate change implications</b>                       | N/A  |
| <b>Property/Asset Implications</b>   | <p>There are no property implications associated with this report.</p> <p><b>Contact officer: David Roberts, Head of Property Services</b><br/> <a href="mailto:david.roberts@cheltenham.gov.uk">david.roberts@cheltenham.gov.uk</a></p>   |

## 1. BACKGROUND

### Counter Fraud Unit Report and Work Plan 2017/2018

- 1.1. The Unit is working directly on behalf of all the Gloucestershire Authorities, West Oxfordshire District Council and other public sector bodies such as Cheltenham Borough Homes and other housing associations.
- 1.2. The Unit is also developing joint working practices with other public sector bodies including Trading Standards, the Police and NHS Services.
- 1.3. The work plan for 2017/2018 has been agreed; **Appendix 2**. The team will be concentrating on adding value in areas associated with risk. A full work plan is being provided to Audit Committee to consider and comment thereon, and a review and update report will be presented at future meetings.
- 1.4. The Counter Fraud Unit will continue to provide Audit Committee with direct updates biannually, for Cheltenham Borough Council this will be at the September and March meetings. The Audit Committee oversees the Council's counter fraud arrangements and it is therefore appropriate for the Committee to be updated in relation to such activity.
- 1.5. Since the start of the financial year, the team have supported the Council in the following areas:
  - Assisting with 1 internal investigation of a Council Officer.
  - Undertaking the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support) and Council Tax liability. There are currently 31 active cases. The team have opened 16 cases and closed 18 cases since 1 April 2017.

This has resulted in an amount exceeding £19,000 of recoverable Council Tax Support being calculated and in addition overpayments of Housing Benefit exceeding £78,000. There has been one successful prosecution. The defendant was fined £200 and costs of £125 were awarded. In addition he has repaid the £4000 Council Tax owed. There has been one Caution given. There has been one Penalty administered; the fine being £1000.
  - Proactive work in relation to debt recovery:
    - 7 summonses have been served in relation to unpaid debt.
    - Assistance in relation to the tracing of individuals and enforcement of an unpaid Council Tax debt totalling £4,000 which has been repaid in full.
    - Referral of £17,400 debt prior to write off for a final trace check resulted in £11,600 being recovered and a further £5,000 being repaid via a payment plan (January 2017 to March 2017).
  - Review of site / premises / property anomalies on behalf of the Spatial Information Team, ICT to inform the Local Land and Property Gazetteer.
  - Review of the Disabled Facilities Grant Process and Procedures. Report issued to the Director of Environment.
  - Work with Cheltenham Borough Homes has resulted positive results:
    - The prevention of right to buy and the recovery of properties for various reasons (abandonment, illegal succession etc). Of note is the recent prosecution of a tenant's relative at Crown Court – she received a 10 month suspended sentence and was ordered to pay £25,000 costs.
    - A review of the housing list; 663 applications has resulted in 258 applications being referred back for further checks. As at the time of writing, 17 applications

have been removed from the list and 3 cases have been identified as possible fraudulent applications.

- The Tenancy Fraud Investigation Officers also identify Council Tax discount issues and the location of debtors as a result of this work. An alleged House of Multiple Occupation was identified and referred to REST in advance of the changes in the legislation (from three storey accommodation to any accommodation).
- A homeless check (CFU now verifying 100%) has resulted in a Hazard Awareness Notice being issued to an address. Referred to Housing Enforcement who passed to the Fire Service and action taken. A case has been identified as a possible fraudulent application.

## **Council Tax, Housing Benefit, Council Tax Support Penalty and Prosecution Policy**

- 1.6.** The Counter Fraud Unit are undertaking a review of a number of Policies and Procedures, in support of each service area, to enable criminal investigations to be legally undertaken and appropriate sanctions to be applied. This Policy has been requested for use within the Revenues and Benefits Teams, **Appendix 3**.
- 1.7.** The Policy is being introduced and it replaces the Housing and Council Tax Benefit Sanctions Policy dated March 2010, **Appendix 4**. The recommended Policy has been drafted for all participants in the Counter Fraud Unit and will provide consistency to the application of penalties and prosecution across the county.
- 1.8.** It should be noted that legislation outlines that to incur a Civil Penalty for a Housing Benefit overpayment, the value needs to exceed £250 however the draft Policy attached details that for decisions at Cheltenham Borough Council, this figure will be £1000. It can be amended in line with local decision making.
- 1.9.** The Policy was drafted on behalf of a number of Gloucestershire Authorities and Senior Leadership / Management Teams and One Legal have been consulted.
- 1.10.** It should be recognised that the Counter Fraud Unit and the service provision it provides is a partnership, so co-ordinating policy across multiple organisations is critical to the success of the partnership.

## **2. MAIN POINTS**

- 2.1.** The Audit Committee is asked to consider the work plan and comment as necessary.
- 2.2.** The Audit Committee is asked to consider the Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy and to provide comments thereon to the Cabinet, to aid its deliberations in the future.

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| <b>Appendices</b> | <ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Work Plan 2017 / 2018</li> <li>3. Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy</li> <li>4. Housing and Council Tax Benefit – Sanctions Policy March 2010</li> </ol> |
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## Risk Assessment

## Appendix 1

| The risk  |   |                       |                | Original risk score<br>(impact x likelihood) |                |       | Managing risk |   |          |                         |                              |
|-----------|---|-----------------------|----------------|--|----------------|-------|---------------|---|----------|-------------------------|------------------------------|
| Risk ref. | Risk description  | Risk Owner            | Date raised    | Impact 1-5                                   | Likelihood 1-6 | Score | Control       | Action  | Deadline | Responsible officer     | Transferred to risk register |
| 1         | The authority suffers material loss and reputational damage due to fraud  | Chief Finance Officer | December 2014  | 3  | 3              | 9     | Reduce        | Maintain a Counter Fraud Team to reduce the likelihood of the risk materialising and also to help recover losses, thus reducing the impact. | Ongoing  | Chief Finance Officer   |                              |
| 2         | Without dedicated specialist staff in place, the Council may be unable to take effective and efficient measures to counter fraud, potentially resulting in authority suffering material losses due to fraud and error | Chief Finance Officer | September 2016 | 3  | 4              | 12    |               | Retain a specialist Counter Fraud Unit to tackle the misuse of public funds on behalf of the Council.                                       | Ongoing  | Chief Financial Officer |                              |

**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

**Likelihood** – how likely is it that the risk will occur on a scale of 1-6  
(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close