

Cheltenham Borough Council
Audit, Compliance and Governance Committee – 24 March 2020
Counter Fraud Unit Report

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| Accountable Member | Cabinet Member Corporate Services, Councillor Alex Hegenbarth |
| Accountable Officer | Paul Jones Executive Director Finance and Assets Paul.Jones@cheltenham.gov.uk |
| Report Author | Emma Cathcart Counter Fraud Manager 01285 623356 Emma.Cathcart@cotswold.gov.uk |
| Ward(s) affected | All indirectly |
| Key/Significant Decision | No |
| Executive summary | <p>The purpose of the report is to provide the Audit, Compliance and Governance Committee with assurance over the counter fraud activities of the Council. The Counter Fraud Unit will continue to provide Audit, Compliance and Governance Committee with direct updates biannually.</p> <p>Work plans are presented to the Audit, Compliance and Governance Committee detailing progress and results for consideration and comment as the body charged with governance in this area.</p> <p>The report also provides the Audit, Compliance and Governance Committee with an update in relation to the Regulation of Investigatory Powers Act (RIPA), the Investigatory Powers Act 2016 and the Council's existing policies and arrangements.</p> |
| Recommendations | <p>That the Audit, Compliance and Governance Committee:</p> <p style="padding-left: 40px;">a) Notes the report and makes comment as necessary.</p> |
| Financial implications | <p>The report details financial savings generated by the Counter Fraud Unit.</p> <p>Contact Officer: Paul Jones, Executive Director Finance and Assets Paul.Jones@cheltenham.gov.uk</p> |

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| Legal implications | <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>The Counter Fraud Unit adheres to the appropriate legislation when conducting work on behalf of the Council and other partners.</p> <p>The Council is required to ensure that it complies with the Regulation of Investigatory Powers Act 'RIPA' 2000, the Investigatory Powers Act 2016 and any other relevant/statutory legislation regarding investigations. Any authorisations for directed/covert surveillance or the acquisition of communications data undertaken should be recorded appropriately in the Central Register.</p> <p>Contact officer: Vikki Fennell, One Legal Vikki.Fennell@tewkesbury.gov.uk</p> |
| HR implications (including learning and organisational development) | <p>The HR team continue to work closely with the Counter Fraud Unit on all internal investigations.</p> <p>The promotion of effective counter fraud controls and a zero tolerance approach to internal misconduct promotes a positive work environment.</p> <p>Contact officer: Julie McCarthy, HR Operations Manager Julie.McCarthy@publicagroup.uk 01242 264355</p> |
| Key risks | <p>The Council is required to proactively tackle fraudulent activity in relation to the abuse of public funds. The Counter Fraud Unit provides assurance in this area.</p> <p>Failure to undertake such activity would accordingly not be compliant and expose the authority to greater risk of fraud and/or corruption.</p> <p>If the Council does not have effective counter fraud and corruption controls it risks both assets and reputation.</p> |
| Corporate and community plan Implications | <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.</p> <p>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> |
| Environmental and climate change implications | <p>N/A</p> |
| Property/Asset Implications | <p>There are no property implications associated with this report.</p> <p>Contact officer: Dominic Stead, Head of Property Services dominic.stead@cheltenham.gov.uk</p> |

1. COUNTER FRAUD UNIT REPORT

- 1.1. The Counter Fraud Unit provides Audit, Compliance and Governance Committee with direct updates biannually. The Audit, Compliance and Governance Committee is the body which oversees the Council's counter fraud arrangements and it is therefore appropriate for the Committee to be updated in relation to such activity.
- 1.2. Attached at Appendix 2 is a copy of the work plan for 2019/20 detailing the current position.
- 1.3. In addition to Appendix 2, as a dedicated investigatory support service, the CFU undertakes a wide range of enforcement work according to the requirements of each Council. This includes criminal investigation and prosecution support for enforcement teams, investigations into staff/member fraud and corruption, or tenancy and housing fraud investigation work. Results for Quarter 1 to Quarter 3 are as follows:
- Single Point of Contact for Department for Work and Pensions (DWP) referrals. 94 Local Authority Information Exchange Forms have been received or referred to DWP for action. In addition we have received or referred 37 cases for joint working.
 - Undertaking the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support). 9 cases have been referred for investigation and 12 cases have been closed or rejected.
This has resulted in 1 criminal sanction (penalty), 1 Civil Penalty and an amount exceeding £1,491 of recoverable Council Tax Support and fines being calculated. The work also resulted in a joint prosecution with the Department for Work and Pensions. The defendant pleaded guilty and received an 18 month suspended sentence, 200 hours community service and was ordered to pay costs of £340. The defendant had fraudulently claimed £4,140 in Council Tax Support which has since been paid in full. In addition overpayments of Housing Benefit exceeding £52,600 have been generated.
 - Review of the NNDR empty void premises – rolling review of premises rated as empty. Since 1 April 2019 221 visits have been completed – 24 were identified as potentially occupied and a further 45 had anomalies or account amendments referred to the team. This exercise is a record keeping one. Due to the fact that there is no liability for three months on empty premises and when occupied other reliefs are likely to be applied – mandatory relief for Charities or Small Business Rate Relief.
 - Review of the empty residential properties not yet classified as long term (C1 Empties) or those classified as long term empty. 446 properties have been referred and visited. 41 properties have been referred as occupied / furnished with a request to review liability and a further 1701 anomalies have been referred to the team. The work supports the Council's Revenues Team to manage empty properties and maximise the tax base and new homes bonus.
 - National Fraud Initiative - Student Loan, Market Trader and Housing Benefit matches reviewed. To date no anomalies have been identified and there are only 12 matches outstanding.
 - A further 8 cases have been referred from Parking Services, Environmental Health, Community Protection and Revenues. The Revenues cases are complete and resulted in the removal of a single person discount and increased liability of £1,444.
 - Work with Cheltenham Borough Homes:
 - 242 referrals have been made requesting checks for homelessness, right to buy, succession or housing applications. In relation to right to buy applications, additional checks have been introduced to ensure that any resultant benefit issues are addressed.

- Full review of the Housing List. Verification of applications within Emergency Band (61 applications), Gold Band (55 applications) and Silver Band (620 applications). The review has resulted in the removal of 3 applications from the Emergency List and 4 applications being removed from the Gold List. The results of the Silver List are still pending.
Each cancelled application represents a property which can be reallocated to another eligible family. The National Fraud Initiative apply a figure of £3,240 for each application removed, for future losses prevented as a result of removing an applicant because there is no need for temporary accommodation to be utilised; this equates to a notional loss avoidance figure of £22,680 for this exercise so far. In addition the result of the band reprioritisation is that those families who are correctly banded have a greater chance of being housed and more speedily.
- Whilst undertaking the review, the CFU also processed the related National Fraud Initiative anomalies – this is ongoing.
- 39 referrals have been made relating to housing and tenancy fraud such as abandonment, illegal succession, subletting, false housing applications, right to buy fraud. This resulted in:
 - 3 cases resulting in the termination of tenancy and return of the property resulting in £279,000 loss avoidance. The NFI annual report estimated the figure to be £93,000 per property recovered based on average four year fraudulent tenancy – this includes temporary accommodation for genuine applicants, legal costs to recover the property, re-let costs and rent foregone during the void period between tenancies.
 - 2 Civil Hearings re illegal succession cases. Possession Order and Costs granted in both cases.
 - 1 successful prosecution re fraudulent Housing Application. £120 Fine and £316 Costs awarded.

2. REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) / INVESTIGATORY POWERS ACT 2016

- 2.1.** The Council's own RIPA Policies are based on the requirements of The Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 and the Codes of Practice relating to directed surveillance and the acquisition of communications data.
- 2.2.** The Policies have been reviewed and were presented to Audit, Compliance and Governance Committee in January 2020; these were adopted by Cabinet in February 2020.
- 2.3.** The arrangements relating to officers involved in the authorisation of the RIPA process are as detailed in the January 2020 report. The Senior Responsible Officer is the Managing Director Place and Growth, Tim Atkins and the Authorising Officers are the Executive Director People and Change, Darren Knight and the Director of Environment, Mike Redman.
- 2.4.** The Council takes responsibility for ensuring its procedures relating to surveillance and the acquisition of communications data are continuously improved and all activity is recorded.
- 2.5.** There have been no RIPA applications made by the Council during 2019/2020. There has been one Non-RIPA application made during 2019/2020 which relates to overt activity.

Risk Assessment

Appendix 1

| The risk | | | | Original risk score (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 | Executive Director Finance and Assets | 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 | Executive Director Finance and Assets | 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 | |
| <p>Explanatory notes</p> <p>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)</p> <p>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)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p> | | | | | | | | | | | |

| Department / Contact | Task | Dates / Notes |
|----------------------|---|---|
| Corporate / Strategy | Delivery of two reports for Audit (and Risk) Committee | April, September and March |
| Corporate / Strategy | RIPA Coordinator Role - Review of Policies / annual report to Members / advisory role for staff | Annual update provided April 3 Policies to be managed; Social Media Policy to Governance Group for consultation. Surveillance and Communications Data Policies approved and adopted. |
| Corporate / Strategy | Home Office Serious and Organised Crime Checklist and accompanying work plan | Draft issued to Governance Group; July and ELT; August. To be cascaded to Service Managers and Team Leaders. Associated work plan to be managed by CFU. |
| Corporate / Strategy | Home Office Bribery and Corruption Assessment Template and accompanying work plan | To be included within 20/21 work plan |
| Corporate / Strategy | Staff and Members Fraud Awareness Sessions | No Member provision required / Staff only |
| Corporate / Strategy | Development / Review of Fraud Response Plan | Q4 SOC consideration |
| Corporate / Strategy | Review Corporate Risk Register | SWAP recommendation Fighting Fraud & Corruption 1.1.1.a – To be included within 20/21 work plan with a focus on service specific risks |
| Corporate / Strategy | Development of Fraud awareness literature for staff and members | Draft complete to be issued to ELT for consideration and comment |
| Corporate / Strategy | Development of RTB / debt recovery process | To be included within 20/21 work plan |
| Corporate / Strategy | Enforcement Officer training | To be included with RIPA / IPA training sessions |
| Corporate / Strategy | Collation and Publication of Fraud Transparency Data | Complete; Published August |
| Procurement | Assist with review of Procurement and Contract Strategy | Q3: SOC consideration / SWAP recommendation Fighting Fraud & Corruption 1.1.2a Procurement Fraud training delivered to all staff with Procurement and One Legal |

SOC = Serious and Organised Crime

| Department / Contact | Task | Dates / Notes |
|-----------------------|--|--|
| Procurement | Supplier payment review | To be included within 20/21 work plan |
| SWAP | Policy and Procedure: Staff Declarations of Interest / Conflicts of Interest | Draft issued to Governance Group for consideration. SOC consideration / SWAP recommendation Members' and Officers' Gifts, Hospitality and Declarations 1.1 |
| SWAP | Review of the Gifts and Hospitality Policy and Procedure | Draft approved by Governance Group. Roll out to staff to be actioned. SOC consideration |
| HR | Review of HR Recruitment and Vetting Policy and Procedures | Q4: SOC consideration |
| Policy | Drafting / consultation / adoption of Money Laundering Policy | To be included within 20/21 work plan |
| Revenues and Benefits | NNDR (Business Rates) empties on a rolling review | As at 31.12.2019 221 visited / 24 occupied / 45 anomalies |
| Revenues and Benefits | Council Tax Long Term Empties / Short Term Empties reviews | 446 properties visited. 41 properties have been referred as occupied / furnished with a request to review liability / 170 anomalies |
| Revenues and Benefits | Holiday Let review | Q4 |
| Revenues and Benefits | National Fraud Initiative Match Review – (2 matches only) | Commenced |
| CBH / CBC | Review of Housing List | Complete – 61 Emergency reviewed / 3 removed. 55 Gold reviewed / 4 removed. 620 Silver reviewed / results pending. 7 removed = £22,680 loss avoidance |

SOC = Serious and Organised Crime