

Cheltenham Borough Council
Audit, Compliance and Governance Committee – 21 April 2021
Counter Fraud Unit Report and
Proceeds of Crime and Anti-Money Laundering Policy

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 Unit 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 detailing progress and results for consideration and comment as the body charged with governance in this area.</p> <p>The report also provides the annual update in relation to the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA) and the Council's existing authorisation arrangements.</p> <p>The report also provides the Audit, Compliance and Governance Committee with an updated Proceeds of Crime and Money Laundering Policy.</p>
Recommendations	<p>That the Audit, Compliance and Governance Committee:</p> <ol style="list-style-type: none"> a) Notes the report and the work plan at Appendix 2 and makes comment as necessary. b) Approves and adopts the Proceeds of Crime and Money Laundering Policy at Appendix 3. c) Authorises the Executive Director Finance and Assets (Chief Finance Officer) to approve future minor amendments to the Policy in consultation with Finance, One Legal and the Counter Fraud Unit.

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>
Legal implications	<p>The Proceeds of Crime and Money Laundering Policy sets out the statutory requirements that the authority must consider and adhere to when undertaking relevant activities.</p> <p>The Authority is also required to ensure that it complies with the Regulation of Investigatory Powers Act 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: One Legal Legalservices@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> <p>The RIPA and IPA Policies demonstrate the Council's consideration of necessity, proportionality and public interest when deciding on surveillance activity or the decision to obtain personal communication data. The application of the Policies and Procedures, to govern surveillance and the obtaining of personal communications data, minimises the risk that an individual's human rights will be breached. Furthermore it protects the Council from allegations of the same.</p> <p>The Proceeds of Crime and Money Laundering Policy mitigates the risk that the Council will fail to fulfil its legal obligations.</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	N/A
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 Audit, Compliance and Governance Committee oversees the Council's counter fraud arrangements and it is therefore appropriate for the Committee to be updated in relation to such activity.
- 1.2. Work plans have been agreed with the Executive Director Finance and Assets and the Council's Management. The Audit, Compliance and Governance Committee, as the body charged with governance in this area, is presented with a copy of the work plan for information.
- 1.3. Attached at Appendix 2 is a copy of the work plan for 2020/2021.
- 1.4. The Counter Fraud Unit (CFU) has been supporting work streams created as a consequence of the pandemic by providing advice relating to fraud risk and abuse, most significantly in relation to the Business Grant Schemes. The CFU have assisted with the application and verification processes of all schemes to date, the team has received 56 referrals to review resulting in the following:
- 23 cases that were confirmed as eligible and the grants were paid.
 - 9 cases of loss prevention, in that the grant monies were not paid, totalling £60,000 (1 classed as fraudulent attempt).
 - 10 cases of post payment recovery totalling £94,002 (5 classed as fraud) have been identified and invoices have been raised. Of this £94,002, £52,668 has been repaid.
 - 3 cases are still under review and 11 cases have been referred back to the team with recommendations for service area decisions.
 - The CFU are working with SWAP (Internal Audit) in relation to post payment activities for each scheme and have assisted in the production of the Fraud Risk Assessment returns to the Department for Business, Energy & Industrial Strategy (BEIS). A comprehensive template has been provided by BEIS to ensure a consistent approach to fraud risk assessment in this area and requires details relating to how these are mitigated and managed.
- 1.5. All Local Authorities participate in the Cabinet Office's National Fraud Initiative, which is a data matching exercise to help prevent and detect fraud nationwide. The use of data by the Cabinet Office in a data matching exercise is carried out with statutory authority under Part 6 of the Local Audit and Accountability Act 2014. It does not require the consent of the individuals concerned under Data Protection Legislation.

Matches are awaited via the Cabinet Office's National Fraud Initiative which has collated and compared business grant data nationwide.

- 1.6. A huge number of cases involving serious offences against animals continues to be submitted from the RSPCA's Inspectorate and this is expected to increase as the financial and psychological consequences of the pandemic continue to impact on people's ability to look after their animals. The CFU is actively collaborating with the RSPCA proposing better working relationships with the Partner Councils, to include new data sharing agreements, as the number of referrals increase.
- 1.7. In addition to the work carried out under the annual work plan attached at 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.
- 1.8. Summary of work:

Single Point of Contact for Department for Work and Pensions (DWP) referrals. During 2020/2021, 45 Local Authority Information Exchange Forms have been received or referred to DWP for action.

- Undertaking the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support).

During 2020/2021, 40 cases were referred for investigation and 45 cases were closed or rejected. This resulted in 2 Criminal Sanctions (Penalties £1,048) and £2,096 of

recoverable Council Tax Support being calculated. The work also resulted in two joint prosecutions with the Department for Work and Pensions. Both defendants pleaded guilty. One received a 6 month Community Order, a 6 month Curfew Order and was ordered to pay costs of £85. The defendant had fraudulently claimed £2,156 in Council Tax Support. The second defendant received a 12 month Community Order, 15 days Rehabilitation Activity Requirement and was ordered to pay a £10 Fine. The defendant had fraudulently claimed £2,546 in Council Tax Support. In addition overpayments of Housing Benefit exceeding £28,000 have been generated.

- During 2020/2021 a further 31 cases have been referred by Officers from across the Council. This includes 4 disciplinary investigations referred by the HR Team. 3 cases have been closed and of these closed cases, 1 member of staff was dismissed for gross misconduct. The other 2 cases resulted in reports with recommendations for management consideration only.
- Work with Cheltenham Borough Homes 2020/2021:
 - 151 referrals received 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.
 - 40 referrals have been made relating to housing and tenancy fraud such as abandonment, illegal succession, subletting, false housing applications, right to buy fraud.
 - There have been no prosecutions during this period. One case of Application Fraud was originally listed for hearing in April 2020 but due to the pandemic and related travel restrictions has been adjourned for hearing in April 2021.
 - Two civil cases were successfully heard in relation to false succession claims; both properties were recovered and costs of £424.50 were awarded.
 - 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.
 - Full tenancy audit, 4,544 properties. The initial review of household data which forms part of the tenancy audit has been completed. Household data is being compared with that held by Revenues and Benefits to identify any anomalies relating to occupancy – this may then highlight discrepancies with council tax discounts and exemptions, benefit entitlement or tenancy matters. All updates to Council Tax Support claims or Council Tax accounts have been completed. The outcomes will be followed up accordingly to review whether any processes can be introduced or improved to continue the flow of correct occupancy data between CBH and the Revenues and Benefits Team.

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

- 2.1.** The Council's Policies are based on the legislative requirements of these Acts and the Codes of Practice relating to directed surveillance and the acquisition of communications data.
- 2.2.** The Policies were reviewed and presented to the Audit, Compliance and Governance Committee in January 2020; these were adopted by Cabinet in February 2020.
- 2.3.** The Council must have a Senior Responsible Officer and Authorising Officers to approve any applications for surveillance or the use of a Covert Human Intelligence Source, before the Court is approached. The Senior Responsible Officer is the Chief Executive, Gareth Edmundson and the Authorising Officers are the Executive Director People and Change, Darren Knight and the Director of Environment, Mike Redman.
- 2.4.** All applications for communications data are made online via the National Anti-Fraud Network (NAFN) which acts as the single point of contact for Councils. There is a requirement for the

Council to nominate a Designated Senior Officer who will confirm to NAFN that the Council is aware of any request and approves its submission. This role is undertaken by the Counter Fraud Unit Manager and the Deputy Counter Fraud Unit Manager.

- 2.5. There have been no RIPA applications made by the Council during 2020/2021 and no applications for communications data. There has been one Non-RIPA application made during 2020/2021 which relates to overt activity.
- 2.6. 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.
- 2.7. The Policy relating to the use of the internet and social media in enforcement and investigations has been reviewed by Governance Group and is to be presented to the Executive Leadership Team for final approval. It will then be presented to the Audit, Compliance and Governance Committee.

3. MONEY LAUNDERING AND PROCEEDS OF CRIME POLICY

- 3.1. The Policy defines a best practice approach to dealing with money laundering obligations and suspicious activity reports.
- 3.2. Proceeds of Crime and Money Laundering legislation govern the responsibilities of individuals and organisations.
- 3.3. The Policy and the related Officers Procedural Guidance addresses the way in which the Council, its employees and its Members can formally discharge these obligations.
- 3.4. The nominated Money Laundering Reporting Officer is the Officer appointed under section 151 of the Local Government Act 1972, in the case of the Council, this is the Executive Director Finance and Assets.

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, Compliance and Governance Committee	March (cancelled) and November
Corporate / Strategy	RIPA Coordinator Role - Review of Policies / annual report to Members / advisory role for staff	Annual update - November IPCO Inspection complete and report issued SRO & AO roles reviewed and IPCO updated Draft Internet and Social Media Investigations Policy and Procedure to Governance Group for consideration
Corporate / Strategy	Home Office Serious and Organised Crime Checklist and accompanying work plan	To be transferred to 2021/2022 work plan (Request re consideration in Licensing)
Corporate / Strategy	Home Office Bribery and Corruption Assessment Template and accompanying work plan	To be transferred to 2021/2022 work plan.
Corporate / Strategy	Staff and Members Fraud Awareness Sessions	Members N/A / Staff online – to be delivered 2021/2022
Corporate / Strategy	Development / Review of Fraud Response Plan	To be transferred to 2021/2022 work plan
Corporate / Strategy	Development of Service Specific Fraud Risk Register	To be transferred to 2021/2022 work plan
Corporate / Strategy	Development of Fraud awareness literature for staff and members	Completed - ELT approval pending
Corporate / Strategy	Development of RTB / debt recovery process	To be transferred to 2021/2022 work plan.
Corporate / Strategy	RIPA, IPA, CPIA, PACE, Disclosure Training - SRO & AO's / Enforcement Officers	Details issued to Service Managers requesting notification of staff requiring training
Corporate / Strategy	Collation and Publication of Fraud Transparency Data	Published - June
Procurement	Assist with review of Procurement and Contract Strategy	Fraud section drafted and issued to Procurement for inclusion in Strategy. Fraud training issued to all staff with Procurement and One Legal
Procurement	Supplier payment review	To be transferred to 2021/2022 work plan
SWAP	Policy and Procedure: Staff Declarations of Interest / Conflicts of Interest	Draft issued to Governance Group for consideration. Further consideration required with HR and One Legal
SWAP	Review of the Gifts and Hospitality Policy and Procedure	Approval received from Governance Group. Learning and Development to input revised form and process into LMS for staff use

Department / Contact	Task	Dates / Notes
HR	Review of HR Recruitment and Vetting Policy and Procedures	To be transferred to 2021/2022 work plan
Policy	Review Whistle-Blowing Policy	To be transferred to 2021/2022 work plan
Policy	Drafting / consultation / adoption of Money Laundering Policy	Complete – Presented to Audit, Compliance and Governance Committee for approval April 2021
Revenues and Benefits	NNDR empties on a rolling review	To be transferred to 2021/2022 work plan
Revenues and Benefits	CTax LTEs and C1 reviews	To be transferred to 2021/2022 work plan
Revenues and Benefits	Holiday Let / Airbnb review	To be transferred to 2021/2022 work plan
Revenues and Benefits	NFI - SPD / Electoral Register	Complete, pending results
Revenues and Benefits	SMI Review (sample 20)	To be transferred to 2021/2022 work plan
Revenues and Benefits	SBRR Review	No longer required
Revenues and Benefits	Business Grants Post Payment Assurance	Ongoing
CBH / CBC	Review of Housing List	To be transferred to 2021/2022 work plan