

Cheltenham Borough Council
Audit, Compliance and Governance Committee – 20 April 2022
Counter Fraud and Enforcement Unit Report

Accountable Member	Cabinet Member Finance and Assets, Councillor Peter Jeffries
Accountable Officer	Paul Jones Executive Director Finance and Assets Paul.Jones@cheltenham.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 and Enforcement 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>
Recommendations	<p>That the Audit, Compliance and Governance Committee:</p> <p style="padding-left: 40px;">a) Notes the report and the work plan at Appendix 2 and makes comment as necessary.</p>
Financial implications	<p>The report details financial savings generated by the Counter Fraud and Enforcement Unit.</p> <p>Contact Officer: Paul Jones, Executive Director Finance and Assets Paul.Jones@cheltenham.gov.uk</p>
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 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@onelegal.org.uk</p>
HR implications (including learning and organisational development)	<p>The HR team continue to work closely with the Counter Fraud and Enforcement Unit on all internal investigations.</p> <p>The promotion of effective counter fraud controls and a zero tolerance approach</p>

	<p>to internal misconduct promotes a positive work environment.</p> <p>Contact officer: Clare Jones, , HR Business Partner Clare.Jones @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 and Enforcement 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>
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: Gemma Bell, Head of Finance and Property Gemma.Bell@cheltenham.gov.uk</p>

1. COUNTER FRAUD AND ENFORCEMENT UNIT REPORT

- 1.1. The Counter Fraud Partnership, which includes Cheltenham Borough Council was the subject of a recent service review. One of the agreed proposals was that the name of the Unit be changed to the 'Counter Fraud and Enforcement Unit' (CFEU) to better reflect delivery. This will give colleagues, clients and members of the public a clearer indication of the remit of the team.
- 1.2. 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.
- 1.3. 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.
- 1.4. Attached at Appendix 2 is a copy of the work plan for 2021/2022.
- 1.5. The CFEU has been supporting work streams related to the Business Grant Schemes. Most recently the team assisted with the mandatory pre-payment verification checks for the 519 applicants who applied for the Omicron Hospitality and Leisure Grant and the related Additional Restrictions Grant. The CFEU are also continuing with the work streams relating to the

required Post Payment Assurance Activities directed by the Department for Business, Energy and Industrial Strategy and the Cabinet Office's National Fraud Initiative matches.

1.6. 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.

- 81 matches have been received via the Cabinet Office's National Fraud Initiative which has collated and compared business grant data nationwide in relation to the original schemes paid during the first lockdown. These matches have been reviewed by the CFEU: 73 required no further action and 8 cases are pending further enquiries. The matches relating to the grant schemes paid between November 2020 and April 2021 are expected in April 2022.
- The team have reviewed 1,621 matches relating to single person discount anomalies. 110 accounts were referred to the Revenues Team requiring amendments. 68 accounts have been updated so far resulting in £42,594 increased revenue. 1027 additional matches relating to this year's data upload have now been received and the team have commenced the review.
- The team have reviewed 191 matches relating to the Council Tax Reduction Scheme and Housing Benefit claims. 18 referrals have been made to the Department for Work and Pensions.

1.7. In addition to the work carried out under the annual work plans attached at Appendix 2, as a dedicated investigatory support service, the CFEU 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. During 2021 / 2022:

- The team has received 26 referrals from across the Council and closed 28 cases. This excludes any Council Tax Reduction Scheme referrals.
- Single Point of Contact for Department for Work and Pensions (DWP) referrals - 41 Local Authority Information Exchange Forms have been received and 29 cases have been referred to DWP for action.
- Undertaking the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support). 42 cases have been referred and 29 cases were closed. This resulted in 1 Criminal Sanction (Penalty £482) and £3,909 of recoverable Council Tax Support being calculated.
- 3 disciplinary investigations were referred by the HR Team, in all three cases, the employees resigned prior to the conclusion of the investigation.
- Work with Cheltenham Borough Homes 2021/2022:
 - 188 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.
 - 51 referrals have been made relating to housing and tenancy fraud such as abandonment, illegal succession, subletting, false housing applications, right to buy fraud.
 - One case of Housing Application Fraud was successfully prosecuted in absence. The defendant received a Fine of £180 and was ordered to pay costs of £30. In addition, a Caution was issued to a member of the family for assisting with the fraudulent application.
 - 3 cases resulting in the termination of tenancy and return of the property, 1 case resulting in the withdrawal of a right to buy application and 1 case resulting in the withdrawal of a housing application. Loss avoidance figure £347,450.

- The CFEU received an internal disciplinary referral, the employee resigned during the investigation.

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 RIPA Surveillance and Covert Human Intelligence Source Policy was recently updated to reflect the new Covert Human Intelligence Sources (Criminal Conduct) Act 2021 which makes provision for those acting as covert agents to commit crime whilst undertaking their duties does not apply to the Council.
- 2.4. The Use of the Internet and Social Media in Investigations and Enforcement Policy was drafted and presented to Audit, Compliance and Governance Committee in September 2021 and adopted by Cabinet in November 2021.
- 2.5. 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.
- 2.6. 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.
- 2.7. The CFEU delivered refresher training to all enforcement staff and the Authorising Officers.
- 2.8. There have been no RIPA applications made by the Council during 2021/2022, there was one application for communications data submitted. There have been six Non-RIPA applications made during 2021/2022 which relate to overt activity.
- 2.9. 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.

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Appendices	1. Risk Assessment 2. Work Plan 2021/2022

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>											

Area of Work	Task
Governance	Delivery of two reports for Audit, Compliance and Governance Committee
Governance	Fighting Fraud & Corruption Locally - Checklist Compliance
Governance	Government Functional Standard 013: Counter Fraud - Compliance
Policy	Counter Fraud and Anti-Corruption Policy
Policy	Corporate Enforcement Policy
Policy	CTAX, CTRS & HB Penalty and Prosecution Policy
Policy	Proceeds of Crime & Anti-Money Laundering Policy
Policy	Whistle-Blowing Policy
Policy	RIPA (Surveillance & CHIS)
Policy	IPA (Acquisition of Communications Data)
Policy	Use of the Internet and Social Media in Investigations and Enforcement
Bribery and Corruption	Assessment Template Review
Bribery and Corruption	Policy and Procedure: Staff Declarations of Interest / Conflicts of Interest
Bribery and Corruption	Review of the Gifts and Hospitality Policy and Procedure
Serious and Organised Crime	Checklist Review
Serious and Organised Crime	Proactive Fraud Drive - transient / cash businesses
Statutory / Regulatory	Collation and Publication of Fraud Transparency Data
Statutory / Regulatory	RIPA / IPA - Annual Report to Members / Advisory / Inspection SPoC
Strategy : Detection	Housing Waiting List review
Strategy : Detection	National Fraud Initiative Match Reviews - Revenues / Benefits
Strategy : Detection	Procurement - Supplier Payment Review

Area of Work	Task
Strategy : Detection	Business Grants - Assurance and Enforcement Activities
Strategy : Detection	NNDR Empty Premises / CTAX LTE Property Visits
Strategy : Detection	SMI Review (sample 20)
Strategy : Detection	Holiday / Airbnb Review
Strategy : Prevention	Development / Review of Fraud Response Plan
Strategy : Prevention	Development of Fraud Awareness Literature (staff)
Strategy : Prevention	Development of Right to Buy Debt Recovery Process
Strategy : Prevention	Development of Service Specific Fraud Risk Register
Strategy : Prevention	Training Members / Staff - Fraud Awareness / RIPA & IPA / CPIA, PACE, Disclosure Training
Strategy : Prevention	Review of HR Recruitment and Vetting Policy and Procedures

RIPA = Regulation of Investigatory Powers Act 2000

IPA = Investigatory Powers Act 2016

CPIA = Criminal Procedure and Investigations Act 1996

PACE = Police and Criminal Evidence Act 1984

