

Cheltenham Borough Council

Audit, Compliance and Governance Committee

19 April 2023

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

Ward(s) affected:

All indirectly

Key Decision: No

Executive summary:

The purpose of the report is to provide the Audit, Compliance and Governance Committee with assurance over the counter fraud activities of the Council. Direct updates will continue to be provided biannually.

Work plans are presented detailing progress and results for consideration and comment as the body charged with governance in this area.

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.

Recommendations:

That the Audit, Compliance and Governance Committee:

- considers the report and work plan at Appendix 2 and makes comment as necessary.
-

1. Implications

1.1. Financial, Property and Asset implications

The report details financial savings generated by the Counter Fraud and Enforcement Unit.

Signed off by: Gemma Bell, Head of Finance and Assets (Deputy S151 Officer),
Gemma.Bell@cheltenham.gov.uk

1.2. Legal implications

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.

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.

Signed off by: One Legal, legalservices@onelegal.org

1.3. Environmental and climate change implications

Not applicable.

1.4. Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Being a more modern, efficient and financially sustainable council

1.5. Equality, Diversity and Inclusion Implications

The CFEU seeks to ensure that public authorities' actions are consistent with the Human Rights Act 1998 (HRA). It balances safeguarding the rights of the individual against the needs of society as a whole to be protected from crime and other public safety risks.

2. Background

- 2.1. In administering its responsibilities the 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 a Councillor.

- 2.2. 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 priorities and community plans.
- 2.3. 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 counter fraud activity.
- 2.4. Work plans have been agreed with the Head of Finance and Assets. The Committee, as the body charged with governance in this area, is presented with a copy of the work plan for

information.
- 2.5. Attached at Appendix 2 is a copy of the work plan for 2022/2023.
- 2.6. The work plan for 2023/2024 is being finalised but will include the following additions:
 - Proactive work in relation to Council Tax Single Person Discounts;
 - Proactive work in relation to small business rates relief;
 - Development of service area fraud risk registers commencing with the higher risk areas;
 - Proactive work within procurement to include a review of small suppliers.

3. Report

3.1. Counter Fraud and Enforcement Unit Update

- 3.2. The CFEU Head of Service forms part of the core Multi-Agency Approach to Fraud (MAAF) group. The core group consists of attendees from Gloucestershire Constabulary Economic Crime Team, Trading Standards, Victim Support, NHS and colleagues from Gloucester City and County Councils. The MAAF has been set up to discuss fraud trends, victim care and communication of fraud scams across Gloucestershire. Through collaborative working the main purpose is to raise awareness to minimise and disrupt fraud across the County.
- 3.3. The CFEU will be facilitating and assisting in getting targeted information on current scams, or guidance, to identified vulnerable groups through our Communications Teams, but also via our staff that are out in the community or within our customer contact points / reception areas. We are working with Gloucestershire Constabulary's Fraud PROTECT Officer whose role is to provide fraud-safeguarding advice to individuals and groups within our communities. We will be attending the Council Offices to deliver her presentation to Borough Councillors to raise awareness of the MAAF Group so that they may share information with their constituents. In addition, we have discussed cascading the same presentation to Town and Parish Councillors via the appropriate forum. The sessions would help to safeguard local communities against the fraud threats currently targeting individuals in Gloucestershire. The presentation equips people with information to stay safe online, teaching them how to spot phishing messages and how to report them. I would also take the opportunity to talk about the CFEU Partnership, fraud risks to the public purse and how to report concerns.

- 3.4. As part of the fraud risk strategy work stream, the Government Functional Standard and the Local Government FFCL checklists have been completed. These will be summarised and presented to the Head of Finance and Assets with suggested areas of improvement or future work streams. In addition, work will also commence with the Corporate Director and Monitoring Officer in relation to integrating the checklist standards within the Annual Governance Statements. A summary of this will be presented to Audit, Compliance and Governance Committee in due course with an update in relation to the service specific fraud risk registers.
- 3.5. The CFEU has developed a fraud awareness leaflet and whistle-blowing flowchart to be issued to all staff for information and with an update confirming that the Counter Fraud and Anti-Corruption and Whistle-Blowing Policies have recently been updated. The leaflet will also form part of the induction pack for new starters. A copy can be issued to the Committee if requested.
- 3.6. All post payment assurance activities have now been completed by the CFEU in relation to the Business Grant Schemes. Our focus has now moved to debt; recovery, reconciliation and transfer to BEIS. As previously reported, invoices totalling £106,098 have been raised and of this figure, £69,764 has been recovered. £36,334 remains outstanding.
- 3.7. Assurance work has commenced in relation to the Test and Trace payments made on behalf of the Department for Work and Pensions. 12 payments representing 10% of all successful applications for the mandatory scheme have been reviewed. This has resulted in 5 cases having been closed no further action, 2 cases of recovery totalling £1,000 and 5 which are currently pending evidence.
- 3.8. 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.
- 4 of the 81 matches relating to business grant data remain outstanding.
 - The team have reviewed the 1027 matches relating to this year's data upload. 38 accounts have been updated resulting in £21,138 increased revenue.
- 3.9. The review of the Housing Waiting List has been completed. This included verification of applications within Emergency Band (49 applications), Gold Band (59 applications) and Silver Band (521 applications). This resulted in 159 recommendations being referred to the Housing Team, results are still pending. Each cancelled housing application represents a property which can be reallocated to another eligible family. The National Fraud Initiative applies a figure of £3,240 for each application removed, to represent the value of future losses prevented as a result of removing an applicant. This represents a saving on the cost of temporary accommodation. In addition, the result of the band re-prioritisation is that those families who are correctly banded have a greater chance of being housed and housed more speedily.
- 3.10. A significant project in early 2022 related to supporting the Revenues Team with verification activities for the payment of the £150 Energy Rebate. The CFEU received 7,747 cases of which 2,085 required further checks and information.

3.11. In addition to the work carried out under the annual work plan 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.

3.12. 2022/2023:

- The team has received 29 referrals from across the Council and closed 34 cases. This excludes any Council Tax Reduction Scheme referrals.
- Three Council Tax Discounts were removed resulting in £2,202 increased billing.
- The CFEU undertakes the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support) and act as the single point of contact for

Department for Work and Pensions (DWP) Housing Benefit investigations. 37 referrals were received and 26 cases were closed.

- Increased Council Tax revenue of £16,695 has been raised. 1 Civil Penalty and 2 Criminal Penalties totalling £1,656 were issued and an individual was successfully prosecuted for dishonestly failing to declare employment; he was sentenced to 8 months imprisonment suspended for 24 months.

3.13. Work with Cheltenham Borough Homes:

- 208 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.
- 10 referrals have been received relating to housing and tenancy fraud such as abandonment, illegal succession, subletting, false housing applications, right to buy fraud.
- 2 properties have been recovered. The Fraud Advisory Panel, Charity Commission, Tenancy Fraud Forum and others have produced a new method using a standard formula to arrive at an average national cost to the taxpayer per detected tenancy fraud of £42,000.

3.14. **Regulation of Investigatory Powers Act 2000 (RIPA) / Investigatory Powers Act 2016**

3.15. 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.

3.16. The Policies were reviewed and presented to the Audit, Compliance and Governance (General Purposes) Committee in January 2020; these were adopted by Cabinet in February 2020.

3.17. As reported in April 2022, the RIPA Surveillance and Covert Human Intelligence Source Policy was 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. There have been no subsequent amendments to date.

- 3.18. The Use of the Internet and Social Media in Investigations and Enforcement Policy, was drafted and presented to Audit, Compliance and Governance (General Purposes) Committee in September 2021 and adopted by Cabinet in November 2021. The roll out of this Policy and associated Procedure across the CFEU Partnership has begun.
- 3.19. 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 Head of Public Protection, Louis Krog.
- 3.20. 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 and Enforcement Unit.
- 3.21. The CFEU delivered refresher training to enforcement staff between November 2022 and January 2023. The Authorising Officers received training in December 2021, following the recent change, an update was provided to Louis Krog in October 2022.
- 3.22. There have been no RIPA applications made by the Council during 2022/2023 and no applications for communications data were submitted. There have been six Non-RIPA applications made during 2022/2023 which relate to overt activity and test purchasing.
- 3.23. 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

4. Alternative options considered

- 4.1. None.

5. Consultation and feedback

- 5.1. Any Policies drafted or revised by the Counter Fraud and Enforcement Unit have been reviewed by One Legal and have been issued to the relevant Senior Officers, Governance Group and Executive Leadership Team for comment.

6. Key risks

- 6.1. The Council is required to proactively tackle fraudulent activity in relation to the abuse of public funds.
- 6.2. Failure to undertake such activity would accordingly not be compliant and expose the authority to greater risk of fraud and/or corruption. If the Council does not have effective counter fraud and corruption controls it risks both assets and reputation.

Report author:

Emma Cathcart, Head of Service Counter Fraud and Enforcement Unit,
Emma.Cathcart@cotswold.gov.uk

Appendices:

- i. Risk Assessment
- ii. Work Plan 2022/2023

Background information:

N/A.

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
1	The authority suffers material loss and reputational damage due to fraud	Executive Director Finance and Assets	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.	Head of Service, Counter Fraud and Enforcement Unit	Ongoing
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	3	4	12	Reduce	Retain a specialist Counter Fraud Unit to tackle the misuse of public funds on behalf of the Council.	Head of Service, Counter Fraud and Enforcement Unit	Ongoing