

Cheltenham Borough Council

Audit, Compliance and Governance Committee

17 April 2024

Counter Fraud and Enforcement Unit Report

Accountable member:

Cabinet Member Finance and Assets, Councillor Peter Jeffries

Accountable officer:

Paul Jones, Deputy Chief Executive (S151 Officer)

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, Director 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 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 promotion of effective counter fraud controls and a zero tolerance approach to internal misconduct promotes a positive work environment.

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 Director of Finance and Assets, the Monitoring Officer and members of the Councils Corporate Management. 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 2023/24.
- 2.6. The work plan for 2024/25 is being finalised but will include a focus on fraud risk mitigation regarding grant schemes and polygamous working as high-risk areas. This work will include both prevention and detection activities.

3. Reasons for recommendations

- 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. The CFEU Head of Service has also joined the Thames Valley MAAF Group, representing West Oxfordshire District Council.
- 3.3. It has been agreed that the Gloucestershire MAAF will have a dedicated webpage. This would be serviced through the ICT team at Tewkesbury Borough Council, funding has been requested from the Office of the Police and Crime Commissioner to support this. The website is an opportunity to put in place a communication medium that will be accessible to residents and staff in the county and beyond. This dedicated webpage will enable the group to shape fraud related messaging and offer guidance, advice on fraud and signpost people to the support that is available. The site will enable the group to educate our communities on the changing threat and to provide success stories and testimonials in order to reduce the stigma and increase reporting.
- 3.4. In relation to the Business Grant Schemes, as previously reported, the focus now relates to debt; recovery, reconciliation and transfer to the Department for Business and Trade (DBT). Cheltenham Borough Council have three debts to which this applies, details have been sent to

BT, confirmation is pending. This work continues with an extended deadline of 31 December 2024.

- 3.5. 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.
- The team have reviewed the 979 Council Tax Single Person Discount matches relating to the 2022/2023 data sets. 122 enquiry letters were issued to residents requesting further information. 37 accounts have been amended resulting in increased Council Tax revenue of £18,433. No Civil Penalties were applied.
 - 484 further matches have been received relating to Council Tax Reduction Scheme, Housing Benefit, tenancy, housing applications and internal data anomalies. 336 have been reviewed to date with 20 referrals being issued to the Department for Work and Pensions.
 - 1,461 matches have been received in relation to the 2023/24 data sets. These relate to Council Tax discrepancies, the team have almost completed the review are underway. Results will be reported to Audit, Compliance and Governance Committee.
- 3.6. In addition to the review of single person discount anomalies identified by the NFI exercise, the CFEU and the Revenues Team are undertaking additional proactive work to review those households with a discount applied. Since 1 April 2023, 1,913 individual households have been contacted by email and 735 have been contacted by post to confirm occupation details. The team are now undertaking verification activity on a further 730 households to confirm eligibility for a discount. A report will then be collated regarding results and information detailing the most effective method of review.
- 3.7. As previously reported results were received in relation to a review of the Housing Waiting List which was undertaken during 2022/23. This included verification of applications within Emergency Band (49 applications), Gold Band (59 applications) and Silver Band (521 applications). Results detailed that 30 applications were removed and 8 applications were downgraded representing a figure of £128,940 in loss avoidance. Each cancelled housing application represents a property which can be reallocated to another eligible family. The National Fraud Initiative applies a figure of £4,283 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.
- 3.8. 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.

3.9. 2023/24:

- The team received 49 referrals from across the Council and closed 49 cases. This excludes any Council Tax Reduction Scheme referrals.
- Work undertaken with the Public Protection Team resulted in the successful prosecution of an individual for offences relating to the Protection from Eviction Act 1977. The individual was found guilty at trial, received a Fine for £210, and was ordered to pay £7,540.60 in costs.
- 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. 44 referrals were received and 40 cases were closed.
- Increased Council Tax revenue of £19,519 has been raised. 3 Criminal Penalties and 4 Civil Penalties totalling £2,364 were applied. In addition an individual pleaded guilty to offences relating to the Council Tax Reduction Scheme. The individual received a Fine of £108 and was ordered to pay £85 costs.

3.10. Work with Cheltenham Borough Homes 2023/24:

- 351 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.
- 17 referrals received relating to housing and tenancy fraud such as abandonment, illegal succession, subletting, false housing applications, right to buy fraud.
- 4 cases received for debt tracing.

3.11. As a result of investigations, 3 Abandoned Properties were recovered and a Right to Buy Application was withdrawn representing £168,000 in loss avoidance.

3.12. 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.

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

3.14. The Council's policies are based on the legislative requirements of these Acts and supporting guidance relating to directed surveillance and the acquisition of communications data.

3.15. The Policies were reviewed and presented to the Audit, Compliance and Governance Committee in January 2020; these were adopted by Cabinet in February 2020. The Use of the Internet and Social Media in Investigations and Enforcement Policy was presented to Audit, Compliance and Governance Committee in September 2021 and adopted by Cabinet in November 2021.

3.16. The Policies were to be reviewed within the CFEU work plan during 2023/24 and this was undertaken by the Investigatory Powers Commissioner's Office (IPCO). The Policies were fully endorsed with a request to remove any reference to the OSC Procedures and Guidance

document as it has been removed from circulation. This has been done. It is not therefore proposed that the Policies will be presented to Members for approval following the review, but copies can be found on the Council's website. There have been no subsequent amendments to date.

- 3.17. 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 Monitoring Officer, Claire Hughes and the Head of Public Protection, Louis Krog.
- 3.18. 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.
- 3.19. The Investigatory Powers Commissioner's Office and the Office for Communications Data Authorisations are the overseeing bodies of this activity. The two organisations are merging to improve efficiency whilst protecting the independent decision making of each. The merged organisation will remain under the name IPCO.
- 3.20. The Investigatory Powers (Amendment) Bill looks to make changes to the IPA following a review of the original Act in light of technological changes and evolving threats. A summary of any changes that impact the Council's activities will be provided as the matter progresses.
- 3.21. In May 2023, the Council was notified of its usual three-yearly inspection by IPCO, regarding its compliance with the legislation. The last inspection took place in August 2020. The inspection was completed by the CFEU remotely and the report confirmed full compliance. The next inspection is due in 2026.
- 3.22. The CFEU has developed a summary and guidance document for all enforcement staff, this will be issued with a reminder to book refresher training with the CFEU. A copy will be issued to all Members for information and reference.
- 3.23. There have been no RIPA applications made by the Council during 2023/24 and no applications were made for communications data. There has been 4 Non-RIPA applications made during 2023/24 concerning overt activity.
- 3.24. 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. Work plans are agreed and reviewed regularly with the Director of Finance and Assets and the Monitoring Officer.
- 5.2. 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.
 - 6.3. 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.
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Appendices:

- i. Risk Assessment
- ii. Work Plan 2023/2024

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