

# STROUD DISTRICT COUNCIL

## AUDIT AND STANDARDS COMMITTEE

19 JULY 2022

<b>Report Title</b>	<b>COUNTER FRAUD AND ENFORCEMENT UNIT REPORT</b>			
<b>Purpose of Report</b>	To provide the Audit and Standards Committee with assurance over the counter fraud activities of the Council in relation to the work undertaken by the Counter Fraud and Enforcement Unit.  The report also provides the Audit and Standards Committee with 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.			
<b>Decision(s)</b>	<b>The Committee RESOLVES to Consider the report and comment as necessary.</b>			
<b>Consultation and Feedback</b>	Work plans are agreed and reviewed regularly with the Strategic Director of Resources.  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, Management and Governance Officers for comment.			
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<b>Options</b>	None. The service is a specialist criminal enforcement service working with the Gloucestershire Local Authorities, West Oxfordshire District Council and a number of other public sector bodies such as social housing providers.			
<b>Background Papers</b>	None.			
<b>Appendices</b>	None.			
<b>Implications (further details at the end of the report)</b>	Financial	Legal	Equality	Environmental
	Yes	Yes	Yes	No

### 1. INTRODUCTION / BACKGROUND

- 1.1. The Audit and Standards 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.
- 1.2. The Counter Fraud Partnership 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.

- 1.3. A summary of the work undertaken is presented to the Audit and Standards Committee detailing progress and results for consideration and comment as the body charged with governance in this area.
- 1.4. The Council is required to proactively tackle fraudulent activity in relation to the abuse of public funds. The CFEU provides assurance in this area. 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.
- 1.5. The Regulation of Investigatory Powers Act and Investigatory Powers Act Policies set out the legislative framework and principles the Council will abide by to mitigate the risk of legal challenge in Court. They demonstrate the Council's consideration of necessity, proportionality and public interest when deciding on surveillance activity and requests for communication data. It also demonstrates openness and transparency for its customers.

## **2. MAIN POINTS**

### **2.1. Counter Fraud and Enforcement Unit Update.**

- 2.2. As a dedicated investigatory support service, the CFEU undertakes a wide range of enforcement and investigation 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.
- 2.3. The CFEU has been tasked with undertaking the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support), working closely with the Department for Work and Pensions in relation to Housing Benefit investigations.
- 2.4. During 2021/2022, the team received 6 referrals and closed 5 cases. This resulted in the following:
  - 2 successful prosecutions:
    - Case 1 – the defendant pleaded guilty and received a 12 month Community Order and is required to undertake 200 hours unpaid work. In addition £85 costs were awarded. The increased Council Tax revenue or fraudulently claimed Council Tax Support totalled £2,239.
    - Case 2 – the defendant pleaded guilty and received a £660 Fine. In addition £507 costs were awarded. The increased Council Tax revenue or fraudulently claimed Council Tax Support totalled £584. The defendant had been offered a Criminal Penalty as an alternative to prosecution but failed to cooperate.
  - The application of 1 Civil Penalty £50.
  - The team have processed 38 enquiries for DWP and referred 2 cases.
- 2.5. Since 1 April 2022 the team have received 1 referral, closed 1 case and have processed 5 enquiries for DWP.
- 2.6. 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.

- 2.7. The CFEU are assisting the Revenues and Benefits Department with the review of National Fraud Initiative (NFI) matches:
- The team reviewed 441 matches relating to single person discount anomalies. 181 accounts were identified as requiring further enquiries with the liable parties. 78 accounts have been referred to the Revenues Department requiring action. 42 accounts have been updated to date resulting in £36,608 increased revenue. In addition 19 Civil Penalties have been applied totalling £1,330. Some adjustments remain outstanding.
  - This year, the team have been asked to undertake the review of single person discount anomalies and matches relating to the Council Tax Reduction Scheme and Housing Benefit claims.
- 2.8. The CFEU continues to support the Council in tackling tenancy fraud. The overall remit is to prevent, detect and deter abuse of public funds and social housing. Housing and tenancy fraud remains as one of the top four areas of fraud and abuse within the public sector. This takes many forms but the two most significant areas are Right to Buy and Illegal Subletting. The CFEU will continue to work with the Council and social housing providers to tackle this effectively.
- 2.9. The Counter Fraud Officers are authorised under the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014. This means they are authorised to obtain information relating to an individual from organisations such as financial institutions (banks, credit card companies), utility companies, communications providers and so on. The Act also created new offences in relation to housing fraud that can be prosecuted by Local Authorities acting on behalf of Social Landlords.
- 2.10. During 2021/2022, the team received 3 new case and closed 6 cases. One property has been recovered representing £93,000 in loss avoidance. Since 1 April 2022 the team have received 2 verification requests and closed 8 cases.
- 2.11. As a rough guide, the Cabinet Office estimated the following savings to Social Housing Providers:
- Tenancy Fraud - £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 cost and rent foregone during the void period between tenancies.
  - Right to Buy - £65,000 per application withdrawn based on average house prices and minimum right to buy discount.
  - Housing Waiting List Misrepresentation - £10,000 per applicant removed based on 1 year local temporary accommodation cost for genuine applicants. The National Fraud Initiative apply a more conservative estimate of £3,240 per case for future losses prevented as a result of removing an applicant from council housing waiting list.
- 2.12. More recently 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. The formula considers:
- The annual average temporary accommodation cost per family for individual Councils (£12,100) multiplied by 3 being the typical duration of for one of these frauds = £36,300;

- Add the average investigation costs (£1,300), average legal costs (£1,000) and the average void costs (£3,140)
  - = £41,740 approximated to £42,000.
- 2.13. The CFU undertakes Member Code of Conduct Investigations on behalf of the partnership and 1 case has been referred to the team relating to a Parish Council matter. This case has been referred for consideration by the Standards Sub-Committee.
- 2.14. **Regulation of Investigatory Powers Act (RIPA) 2000 and Investigatory Powers Act (IPA) 2016.**
- 2.15. 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.
- 2.16. The Policies were reviewed and presented to the Audit and Standards Committee in April 2021.
- 2.17. 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.
- 2.18. The Use of the Internet and Social Media in Investigations and Enforcement Policy is presented to the Audit and Standards Committee under a separate report at this meeting for adoption.
- 2.19. The Council underwent an inspection by the Investigatory Powers Commissioner's Office in January 2022. The inspection was completed remotely and the report confirms a high level of compliance by the Council.
- 2.20. The Inspector requested the introduction of a centralised register and the provision of training. The CFEU will manage the register as the RIPA Coordinator and will be delivering refresher training to all enforcement staff and the Authorising Officers.
- 2.21. 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.
- 2.22. The CFEU will be delivering refresher training to all enforcement staff and the Authorising Officers.
- 2.23. There have been no RIPA applications made by the Council during 2021/2022, and no applications for communications data have been submitted. The Council has not held data relating to Non-RIPA activity to date. This data will now be recorded, commencing 1 April 2022.
- 2.24. 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.

### **3. CONCLUSION**

- 3.1 The Council were fully supportive of the original Counter Fraud Unit project and funding bid and the CFEU is now delivering financial results in this area.

### **4. IMPLICATIONS**

#### **4.1 Financial Implications**

The report details financial savings generated by the CFEU and the objectives in reducing crime and financial loss to the Local Authority.

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#### **4.2 Legal Implications**

- 4.2.1 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.

- 4.2.2 The Council 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. It should also consider government guidance in this area.

- 4.2.3 The Council has a statutory obligation for enforcing a wide range of legislation, where it is necessary and proportionate to do so. Human rights implications are a consideration of this type of activity and this is included within the Policy.

- 4.2.4 Any requests for directed/covert surveillance or the acquisition of communications data to be undertaken should be necessary and proportionate, and authorised by the appropriate Officer. Both Policies provide information and advice to those seeking authorisation and those officers granting authorisation. Both policies confirm the process to be used and matters to be considered.

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#### **4.3 Equality Implications**

- 4.3.1 The promotion of effective counter fraud controls and a zero tolerance approach to internal misconduct promotes a positive work environment.

- 4.3.2 The application of these Policies, to govern surveillance and the obtaining of personal communications data, ensures that there is less risk that an individual's human rights will be breached. Furthermore it protects the Council from allegations of the same.

#### **4.4 Environmental Implications**

- 4.4.1 There are no significant implications within this category.