

**STROUD DISTRICT COUNCIL**

**AUDIT AND STANDARDS COMMITTEE**

**29 NOVEMBER 2022**

<b>Report Title</b>	<b>COUNTER FRAUD AND ENFORCEMENT UNIT REPORT</b>			
<b>Purpose of Report</b>	<p>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.</p> <p>The report also provides the Audit and Standards Committee with the updates in relation to the work streams associated with the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA) and the Council's existing authorisation arrangements.</p>			
<b>Decision(s)</b>	<b>The Committee RESOLVES to consider the report and comment as necessary.</b>			
<b>Consultation and Feedback</b>	<p>Work plans are agreed and reviewed regularly with the Strategic Director of Resources.</p> <p>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.</p>			
<b>Report Author</b>	<p>Emma Cathcart, Head of Service, Counter Fraud and Enforcement Unit</p> <p>Email: <a href="mailto:Emma.Cathcart@cotswold.gov.uk">Emma.Cathcart@cotswold.gov.uk</a></p>			
<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. 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.
- 1.2. 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.
- 1.3. 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.

- 1.4. 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.

## **2. MAIN POINTS**

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

- 2.2. 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.
- 2.3. 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.
- 2.4. The CFEU 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 was referred for consideration by the Standards Sub-Committee on 27 September 2022. The Sub-Committee found that there had been a breach and suggested that training was undertaken by the Councillor concerned.
- 2.5. 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. Since 1 April 2022, the team have received 2 referrals, closed 1 case and processed 11 enquiries for the Department for Work and Pensions.
- 2.6. A proactive drive has commenced which will compare earnings declarations made for Covid Test and Trace Grants and those made for the purposes of claiming Council Tax Support. 870 successful applications for Test and Trace payments were made, results will be reported to the Committee in the next Counter Fraud and Enforcement Unit Report.
- 2.7. 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.
- 2.8. 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 in relation to the 2020/2021 upload of data. 49 accounts have been updated resulting in £46,927 increased revenue. In addition 20 Civil Penalties have been applied totalling £1,400.
  - 1,143 matches have been received in relation to single person discount anomalies in relation to the 2021/2022 upload of data. 376 matches have been reviewed so far.

- The team have received 549 matches relating to the Council Tax Reduction Scheme and Housing Benefit claims. 334 matches have been reviewed so far.
- 2.9. 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.
- 2.10. Housing Committee approved a report in July 2022 which summarised how Stroud District Council may assist with the prevention, detection and prosecution of housing and tenancy fraud on behalf of Social Housing providers within the District.
- 2.11. 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.
- 2.12. Since 1 April 2022, the team have received 2 referrals and closed 9 cases.
- 2.13. 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.
- 2.14. 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.
- 2.15. **Regulation of Investigatory Powers Act (RIPA) 2000 and Investigatory Powers Act (IPA) 2016 Update.**
- 2.16. Polices were reviewed and presented to the Audit and Standards Committee in April and July 2021.

- 2.17. 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.
- 2.18. The Council was the subject of an inspection by the Investigatory Powers Commissioner's Office in January 2022. The Inspector requested the introduction of a centralised register and the provision of training.
- 2.19. The CFEU has now set up a register as the RIPA Coordinator and refresher training was delivered to staff on 10 October 2022 and 21 October 2022.
- 2.20. 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 Corporate Director (Monitoring Officer), Claire Hughes and the Authorising Officers are the Strategic Director of Place, Brendan Cleere and the Head of Environmental Health, Sarah Clark. The Officers have been registered with the Investigatory Powers Commissioner's Office.

### **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.

Andrew Cummings, Strategic Director of Resources.

Email: [andrew.cummings@stroud.gov.uk](mailto:andrew.cummings@stroud.gov.uk)

#### **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.

One Legal

Email: [legalservices@onelegal.org.uk](mailto:legalservices@onelegal.org.uk)

### **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.