

STROUD DISTRICT COUNCIL

AUDIT AND STANDARDS COMMITTEE

18 APRIL 2023

Report Title	COUNTER FRAUD AND ENFORCEMENT UNIT REPORT			
Purpose of Report	<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>			
Decision(s)	The Committee RESOLVES to Consider the report and comment as necessary.			
Consultation and Feedback	<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>			
Report Author	<p>Emma Cathcart, Head of Service Counter Fraud and Enforcement Unit Email: Emma.Cathcart@cotswold.gov.uk</p>			
Options	<p>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.</p>			
Background Papers	None.			
Appendices	None.			
Implications (further details at the end of the report)	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. With a colleague from ARA, 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 and the NHS. 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.
- 2.4. 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.
- 2.5. 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. Between 1 April 2022 and 28 February 2023, the team have received 9 referrals, closed 8 cases and processed 26 enquiries for the Department for Work and Pensions. Increased Council Tax revenue of £2,572 has been raised.
- 2.6. A proactive drive has been completed which compared earnings declarations made for Covid Test and Trace Grants and those made for the purposes of claiming Council Tax Support. 483 payments were made under the main scheme, of the 179 which also received Council Tax Support, 18 were identified as requiring further checks. 386 payments were made under the discretionary scheme, 5 were identified as requiring further checks. More in depth investigations provided assurance that there was no fraud in this area of work and verification activities had been robust.
- 2.7. The work plan for 2023/2024 will include proactive work in relation to the Council Tax Reduction Scheme (Council Tax Support).
- 2.8. 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.
- 2.9. The CFEU are assisting the Revenues and Benefits Department with the review of National Fraud Initiative (NFI) matches:
- 1,143 matches have been received in relation to single person discount anomalies in relation to the 2021/2022 upload of data. These have all been reviewed and 504 accounts were identified as requiring further enquiries with the liable parties; letters have been sent.
 - The team have received 1,496 matches relating to the 2022/2023 data sets. These will be reviewed in due course.
- 2.10. 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.

- 2.11. 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. Between 1 April 2022 and 28 February 2023, the team have received 8 referrals and closed 11 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. 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.
- 2.17. Policies were reviewed and presented to the Audit and Standards Committee in April and July 2021. The RIPA Policy reflects 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 either Policy.
- 2.18. 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.

- 2.19. The Use of the Internet and Social Media in Investigations and Enforcement Policy was presented to Audit and Standards Committee in July 2022. The roll out of this Policy and associated Procedure will be discussed at Governance Group.
- 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.
- 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 delivered refresher training to all enforcement staff and the Authorising Officers in 2022.
- 2.23. There have been no RIPA applications made by the Council during 2022/2023, and no applications for communications data were submitted. There has been no Non-RIPA applications made during 2022/2023.
- 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

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 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.

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.

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

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

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

There are no significant implications within this category.