

TEWKESBURY BOROUGH COUNCIL

Report to:	Audit and Governance Committee
Date of Meeting:	29 July 2020
Subject:	Counter Fraud Unit Report
Report of:	Head of Finance and Asset Management
Corporate Lead:	Deputy Chief Executive
Lead Member:	Lead Member for Corporate Governance
Number of Appendices:	2

Executive Summary:

To provide the Audit and Governance Committee with assurance over the counter fraud activities of the Council.

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

The Counter Fraud Unit will continue to provide Audit and Governance Committee with direct updates biannually, for Tewkesbury Borough Council this will be at the July and December meetings.

The report also provides the annual update to Audit and Governance Committee in relation to the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA) and the Council's existing policies and arrangements.

Recommendation:

To CONSIDER the the annual update on the work of the Counter Fraud Team.

Reasons for Recommendation:

The Audit 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.

In administering its responsibilities, this 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 Councillor.

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 and community plans.

Resource Implications:

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

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 Counter Fraud Unit adheres to the appropriate legislation when conducting work on behalf of the Council and other partners.

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. Any authorisations for directed/covert surveillance or the acquisition of communications data undertaken should be authorised by the appropriate Officer and recorded in the Central Register.

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.

Risk Management Implications:

The Council is required to proactively tackle fraudulent activity in relation to the abuse of public funds. The Counter Fraud Unit 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.

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.

Performance Management Follow-up:

Regular updates are provided by the Counter Fraud Manager to the Head of Finance and Asset Management and the Head of Corporate Services. Biannual reports in relation to counter fraud work will be made to the Audit and Governance Committee.

Internal Audit and the Counter Fraud Unit have a formalised protocol and now meet quarterly to review the current work plan and assess any areas of risk.

Policy documentation will be presented when required to the Management Team.

Environmental Implications:

Not applicable.

1.0 INTRODUCTION/BACKGROUND

- 1.1 The Audit 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.

1.2 Work plans for 2020/21 have been agreed with the Chief Finance Officer and corporate management team and work is underway. The Audit and Governance Committee, as the body charged with governance in this area, is presented with a copy of the work plan for information. The plan is likely to change as a consequence of the work streams created by the COVID-19 pandemic.

1.3 Attached at Appendix 1 is the updated work plan for 2019/20 and at Appendix 2 is the work plan for 2020/21.

2.0 WORK PROGRAMME AND RESULTS

2.1 The Counter Fraud Unit has been supporting work streams created as a consequence of the COVID-19 pandemic by providing advice relating to fraud risk and abuse, most significantly in relation to the business grants.

2.2 The Counter Fraud Unit is currently developing a medium term enforcement proposal to manage the current situation whilst we cannot undertake interviews under caution in person. This proposal follows guidance from the Crown Prosecution Service and others which recommends that written statements under caution are obtained so that enforcement activity may continue.

2.3 The Counter Fraud Unit has procured a case management system and is now able to implement a new process which means that referrals will automatically be uploaded in to the system via a secure link for all five partner Councils, Publica and the 10 third party clients.

2.4 In addition to Appendices 1 and 2, as a dedicated investigatory support service, the Counter Fraud Unit 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 Summary of work 2019/2020:

- The team received 11 referrals from across the Council and closed six cases.
- Assisting the Revenues Team to investigate referrals relating to incorrectly claimed Council Tax discounts or exemptions. The work resulted in the application of three Civil Penalties totalling £210 and increased Council Tax revenue of £1,012.
- The Counter Fraud Unit has been tasked with undertaking the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support) and are the single point of contact for Department for Work and Pensions (DWP) Housing Benefit investigations.
 - The team received 23 referrals and closed 28 cases. 12 Civil Penalties and 10 Criminal Penalties have been applied totalling £5,587 and increased Council Tax revenue of £18,916 has been raised.
 - As previously reported, three individuals have been prosecuted; all parties pleaded guilty. Two were sentenced to a 12 month community order for 150 hours unpaid work and were ordered to pay £85 costs and the third individual received a £100 fine and was ordered to pay £445 costs.
 - The team have processed 126 enquiries for DWP and sent / received 18 joint working requests.

- 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 reviewed 1,279 matches. Of these matches 50 accounts have been amended so far generating £27,581 increased Council Tax revenue and 22 Civil Penalties, totalling £1,540, have been applied. The work stream was interrupted by recent events but will be completed in due course.
- The team undertook 1,114 visits to business premises as part of the ratings list review.

2.6 During quarter one of 2020/21, the team received five referrals from across the Council and the review of the housing waiting list has commenced.

3.0 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) AND THE INVESTIGATORY POWERS ACT 2016 (IPA) UPDATE

3.1 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.

3.2 The policies will be presented to Audit and Governance Committee in September 2020 and will be taken to Executive Committee thereafter.

3.3 The Council must have a Senior Responsible Officer and Authorising Officers to approve the application before the Court is approached. The Senior Responsible Officer is the Chief Executive, and the Authorising Officers are the Head of Finance and Asset Management and the Head of Community Services.

3.4 There have been no RIPA applications and no non-RIPA applications made by the Council during 2019/20. There have been no applications for communications data.

3.5 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.

3.6 The Council is currently undergoing an inspection by the Investigatory Powers Commissioner's Office. An update will be provided to the Audit and Governance Committee in the next Counter Fraud Unit report.

4.0 OTHER OPTIONS CONSIDERED

4.1 None

5.0 CONSULTATION

5.1 Work plans for 2020/21 have been agreed with the Head of Finance and Asset Management and the Head of Corporate Services.

6.0 RELEVANT COUNCIL POLICIES/STRATEGIES

6.1 Counter Fraud and Anti-Corruption Policy.
Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy.

7.0 RELEVANT GOVERNMENT POLICIES

7.1 None

8.0 RESOURCE IMPLICATIONS (Human/Property)

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

9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

9.1 This is a positive example of joint working across the county. The existence of counter fraud activity acts as a deterrent to the abuse of public funds which impacts positively on the economy and local demographic.

10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

10.1 The service is a shared one across the county, as such overheads and management costs are also shared equally meaning there is increased value for money.

10.2 The application of the RIPA and IPA 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.

11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

11.1 Counter Fraud and Anti-Corruption Policy approved at Executive Committee in October 2019.

Background Papers: Report to Council January 2017; Counter Fraud Unit Business Case.

Contact Officer: Counter Fraud Manager
01285 623356 Emma.Cathcart@cotswold.gov.uk

Appendices: Appendix 1 – Work Plan 2019/20
Appendix 2 – Work Plan 2020/21