

TEWKESBURY BOROUGH COUNCIL

Report to:	Audit and Governance Committee
Date of Meeting:	20 July 2022
Subject:	Counter Fraud and Enforcement Unit Report
Report of:	Head of Service, Counter Fraud and Enforcement Unit
Corporate Lead:	Head of Finance and Asset Management
Lead Member:	Lead Member for Corporate Governance
Number of Appendices:	1

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

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.

Recommendation:

To CONSIDER the annual update on the work of the Counter Fraud and Enforcement Unit.

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 and Enforcement 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 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.

Risk Management Implications:

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

Performance Management Follow-up:

Regular updates are provided 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 and Enforcement Unit have a formalised protocol and meet 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, it is therefore appropriate for the Committee to be updated in relation to counter fraud activity.
- 1.2 Work plans have been agreed with the Head of Finance and Asset Management and the Head of Corporate Services. 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.
- 1.3 Attached at Appendix 1 is the work plan for 2021/2022 and for 2022/2023.

2.0 WORK PROGRAMME RESULTS

- 2.1** The Counter Fraud and Enforcement 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 Grant Schemes. The Counter Fraud and Enforcement Unit has received 10 referrals. Of these referrals, one case was confirmed as eligible; two cases of loss prevention, in that grant monies totalling £2,668 were not paid, have been referred back to the team; and two cases were deemed to be ineligible - £21,326 is being pursued. Five cases are still under review.
- 2.2** 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 is processing the following:
- 21 matches have been received which has collated and compared business grant data nationwide in relation to the original schemes paid during the first lockdown. These are under review.
 - The team has reviewed 672 matches relating to single person discount anomalies. 310 accounts were identified as requiring further enquiries with the liable parties. 110 accounts have been referred to the Revenues Department requiring action. Increased revenue figures and penalty details are pending. A further 480 matches have been received and will be reviewed in quarter 3.
 - 264 matches relating to the Council Tax Reduction Scheme and Housing Benefit. 122 matches have been reviewed to date.
 - 72 matches have been reviewed relating to the housing waiting list. 15 discrepancies have been referred to the Housing Team. This is in addition to the general review of the Housing Waiting List undertaken by the Counter Fraud and Enforcement Unit.
- 2.3** The results relating to the review of the housing list silver band applications have been received. The team reviewed 580 applications and referred 207 discrepancies to the team. 71 applications have been removed from the waiting list and six were downgraded. Each cancelled housing application represents a property which can be reallocated to another eligible family. The National Fraud Initiative applies a figure of £3,240 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. The loss avoidance figure for this piece of work is £230,040. Results relating to emergency and gold band applications were reported to Audit and Governance Committee in July 2021.
- 2.4** In relation to work streams detailed on Appendix 1, a review of the Gifts and Hospitality procedure has been completed. A revised online form, which focusses more on intent rather than just value, will be introduced and staff awareness raised.
- 2.5** The CFEU issued a Vetting and Recruitment Risk Report to HR for consideration of the risks associated with employing new staff and best practice to mitigate these. The report was issued for assurance purposes and the HR and OD Manager has confirmed that there are robust processes embedded within the service.

- 2.6** In addition to the work carried out under the annual work plan attached at Appendix 1, as a dedicated investigatory support service, the Counter Fraud and Enforcement 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.
- 2.7** During 2021/2022, the team received 15 referrals from across the Council and closed 16 cases. Since 1 April 2022, the team has received a further two referrals. This excludes referrals relating to the Council Tax Reduction Scheme.
- 2.8** The team assisted the Planning team with a successful prosecution relating to unauthorised work to a listed building. The individual pleaded guilty and received a £1,107 Fine. Costs of £613 were also awarded.
- 2.9** The Counter Fraud and Enforcement 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 is the single point of contact for Department for Work and Pensions (DWP) Housing Benefit investigations. During 2021/2022, the team received 28 referrals and closed 21 cases. Since 1 April 2022, a further six referrals have been received. The team issued a caution, as an alternative to prosecution, relating to a case of undeclared employment. 12 Civil Penalties have been applied totalling £700 and increased Council Tax revenue of £16,782 has been raised. The team processed 42 enquiries for the Department for Work and Pensions and sent / received 16 joint working requests.
- 3.0 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) / 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 were reviewed and presented to the Audit and Governance Committee in September 2020; these were adopted by Executive Committee in November 2020.
- 3.3** 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.
- 3.4** The Use of the Internet and Social Media in Investigations and Enforcement Policy was drafted and presented to Audit Committee in November 2021 and adopted by Cabinet in December 2021.
- 3.5** 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, and the Authorising Officers are the Head of Finance and Asset Management and the Head of Community Services.
- 3.6** 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.

- 3.7** The CFEU will be delivering refresher training to all enforcement staff. All Authorising Officers received training in January 2022.
- 3.8** 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.

4.0 OTHER OPTIONS CONSIDERED

- 4.1** None

5.0 CONSULTATION

- 5.1** Work plans 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

- Whistle Blowing Policy

- Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy
- Corporate Enforcement Policy

- Regulation of Investigatory Powers Act 2000 (Surveillance and CHIS) Policy

- Investigatory Powers Act 2016 (Acquisition of Communication Data) Policy

- Use of the Internet and Social Media in Investigations and Enforcement 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.

11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

11.1 None

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

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Appendices: Appendix 1 – Work Plans 2021/2022 and 2022/23