

TEWKESBURY BOROUGH COUNCIL

Report to:	Audit and Governance Committee
Date of Meeting:	19 July 2023
Subject:	Counter Fraud and Enforcement Unit Report
Report of:	Head of Service: Counter Fraud and Enforcement Unit
Head of Service/Director:	Executive Director: Resources
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 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.

Financial 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.

Environmental and Sustainability Implications:

None.

Resource Implications (including impact on equalities):

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

Safeguarding Implications:

Where any safeguarding concerns are identified during the course of the Counter Fraud and Enforcement Unit duties, appropriate referrals will be made.

Impact on the Customer:

Prosecutions will only be considered where the evidential and public interest tests are met with due consideration to the welfare of individuals.

The local authority will only take enforcement action where appropriate to do so with due consideration to older offenders, offenders with disabilities and where the offender lacks mental capacity.

1.0 INTRODUCTION

- 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** 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.
- 1.3** 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.
- 1.4** Work plans have been agreed with the Executive Director: Resources and the Director: Corporate Resources. 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 work plan for 2022/2023 is attached at Appendix 1.
- 1.5** The work plan for 2023/2024, attached at Appendix 2 includes the following additions:
- Proactive work in relation to the Council Tax Reduction Scheme (Council Tax Support).
 - Proactive work in relation to small business rates relief.
 - Development of service area fraud risk registers commencing with the higher risk areas.
 - Proactive work within procurement to include a review of small suppliers.

2.0 WORK PROGRAMME RESULTS

- 2.1** The Counter Fraud and Enforcement Unit 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, NHS and colleagues from Gloucester City and County Councils. 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.
- 2.2** The CFEU will be facilitating and assisting in getting targeted information on current scams, or guidance, to identified vulnerable groups through our Communications Teams, but also via our staff that are out in the community or within our customer contact points / reception areas. We are working with Gloucestershire Constabulary's Fraud PROTECT Officer whose role is to provide fraud-safeguarding advice to individuals and groups within our communities. We will be attending the Council Offices to deliver her presentation to Borough Councillors to raise awareness of the MAAF Group so that they may share information with their constituents. In addition, we have discussed cascading the same presentation to Town and Parish Councillors via the appropriate forum. The sessions would help to safeguard local communities against the fraud threats currently targeting individuals in Gloucestershire. The presentation equips people with information to stay safe online, teaching them how to spot phishing messages and how to report them. It will also provide an opportunity to talk about the CFEU Partnership, fraud risks to the public purse and how to report concerns.
- 2.3** As part of the fraud risk strategy work stream, the Government Functional Standard and the Local Government FFCL checklists have been completed. These will be summarised and presented to the Executive Director: Resources with suggested areas of improvement or future work streams. In addition, the integration of the checklist standards within the Annual Governance Statements will be actioned. A summary of this will be presented to Audit and Governance Committee in due course with an update in relation to the service specific fraud risk registers.
- 2.4** The CFEU has developed a fraud awareness leaflet and whistle-blowing flowchart to be issued to all staff for information and with an update confirming that the Counter Fraud and Anti-Corruption and Whistle-Blowing Policies have recently been updated. The leaflet will also form part of the induction pack for new starters. A copy can be issued to the Committee if requested.
- 2.5** The CFEU have been heavily supporting work streams created as a consequence of the pandemic by providing advice relating to fraud risk and abuse, most significantly in relation to the Business Grant and Energy Rebate Schemes.
- 2.6** All post payment assurance activities have now been completed by the CFEU in relation to the Business Grant Schemes. Our focus has now moved to debt; recovery, reconciliation and transfer to BEIS.

- 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. The team are processing the following:
- As previously reported, the team reviewed 1,448 matches representing the 20/21 and 21/22 data sets. In relation to single person discount anomalies, 131 Council Tax accounts were updated resulting in £85,747 increased revenue.
 - In relation to the Housing Waiting List matches and the additional proactive review of the Council's Housing Waiting List, 83 applications were removed representing a figure of £268,920 in loss avoidance.
- 2.8** 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.
- 2.9** During 2022/2023, the team received 22 referrals from across the Council and closed 18. This excludes referrals relating to the Council Tax Reduction Scheme.
- 2.10** 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. Between 1 April 2022 and 31 March 2023, the team received 29 referrals and closed 31 cases. Five Civil Penalties have been applied totalling £290 and increased Council Tax revenue of £7,512 has been raised. The team processed 44 enquiries for the Department for Work and Pensions.
- 2.11** Work undertaken with Enforcement Officers resulted in five successful prosecutions as follows:
- The team assisted Planning 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.
 - The team assisted Housing with a successful prosecution relating to a fraudulent housing application. The individual pleaded guilty and received a £708 Fine. Costs of £515.50 were also awarded.
 - The team successfully prosecuted two individuals in relation to unlicensed breeding, animal welfare and fraud offences. Both individuals pleaded guilty and were sentenced to 18 months in custody suspended for one year. In addition, one defendant was ordered to complete 25 rehabilitation days and the other to undertake 120 hours of unpaid work. Costs of £1,828 were awarded and a Compensation Order for £3,364 was granted.
 - Following a trial, an individual was found guilty of fraud in relation to the selling of dogs. The defendant purported to be the breeder, providing false details in an advert, when in fact the animals had been obtained from an unlicensed breeder. The individual received a £900 Fine and was ordered to pay £300 Costs.

3.0 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) / INVESTIGATORY POWERS ACT 2016

- 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** As reported in July 2022, the RIPA Surveillance and Covert Human Intelligence Source Policy was 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. There have been no subsequent amendments to date.
- 3.4** The Use of the Internet and Social Media in Investigations and Enforcement Policy was presented to Audit and Governance Committee in July 2021 and adopted by Executive Committee in September 2021. The roll out of this policy and associated procedure across the Counter Fraud and Enforcement Unit Partnership has begun
- 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 Chief Executive, and the Authorising Officers are the Executive Director: Resources and the Director: Communities.
- 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 Counter Fraud and Enforcement Unit delivered refresher training to all enforcement staff and One Legal staff in November and December 2022. The Authorising Officers received training in January 2022. Following the change to the registered Senior Responsible Officer, refresher training will be arranged.
- 3.8** There have been no RIPA applications and no applications for communications data were submitted during 2022/2023. One Non-RIPA application has been made relating to overt activity.
- 3.9** 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 CONSULTATION

- 4.1** Any policies drafted or revised by the Counter Fraud and Enforcement Unit have been reviewed by One Legal and issued to the relevant Senior Officers, Management and Governance Officers for comment.
- 4.2** 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.

5.0 ASSOCIATED RISKS

- 5.1** 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.
- 5.2** 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.
- 5.3** 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

6.0 MONITORING

- 6.1** The work programme is monitored on an ongoing basis by officers of the Counter Fraud and Enforcement Unit and on a quarterly basis by relevant Heads of Service.

7.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

- 7.1** 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

Background Papers: None

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Appendices: Appendix 1 – Work Plan 2022/23
Appendix 2 – Work Plan 2023/24