

## **APPENDIX 1A: UNDERSTANDING FRAUD RISKS**

### **INTRODUCTION**

Fraud risk changes over time and collaboration with other organisations can help identify and avoid new fraud risks. Many frauds follow patterns established in one area that are then exported into new ones. With the right training and information sharing networks these can easily be avoided.

Understanding the key fraud risks in each of the areas highlighted in the Corporate Counter Fraud and Investigation Plan, will assist in the prevention and detection of fraud, which in turn will help reduce the financial pressure on the Council and, help protect frontline services.

The following paragraphs defined in more detail some of the key fraud risks in local government as outlined in various national reports produced by the Audit Commission and the National Fraud Authority.

### **PROCUREMENT / CONTRACTING**

Procurement fraud can be perpetrated by those inside and outside an organisation. The nature of procurement fraud differs between the two core stages of the procurement lifecycle; pre-contract award and post-contract award.

Fraud in the pre-contract award phase is complex, often enabled by a lack of compliance with policy and effective due diligence but also involving activity such as collusion and corruption.

Fraud in the post-contract phase tends to involve overpayments to contractors, through false or duplicate invoicing, payments for substandard work or work not being completed under contract terms. Sharp practice and unlawful activity can also be present in the margins of post-contract award fraud. Examples include overpricing for goods or services.

The change in the way in which local government manages its services and finances will create additional fraud risks. The move from delivering services to commissioning services from neighbourhood and community groups increases the risk of bribery, financial mismanagement and abuse of funds.

### **HOUSING TENANCY**

Housing tenancy fraud is the unlawful occupation of social housing, usually to make a profit which is highly lucrative to fraudsters. The government highlighted this issue as one of national importance and so brought in new legislation in 2013 to:

- criminalise the offence of subletting
- provide powers to local authorities to lead the detection of offences.

The types of fraud in this area are wide ranging and include false homeless applications, false claims for tenancy succession, key selling, abandonment, non-occupancy and fraudulent Right to Buy applications.

It is now well recognised that the impact of social tenancy fraud draws across many council services leading to a greater peripheral loss to not only housing (homelessness) and benefits but also inherent issues in adults and children social care installing unstable living environments due to the use of temporary housing. These wider implications to communities include:

## APPENDIX 1A: UNDERSTANDING FRAUD RISKS

- they can struggle to create a stable educational environment for their children
- it can:
  - impact on the health and well being of family members, as well as
  - create a lack of social cohesion.

*As outlined by an article by ALARM (the public risk management association) called Battling Tenancy Fraud.*

To date, there has been a financial incentive for local authorities to deal with tenancy fraud as a way of reducing the temporary accommodation costs. Civil recovery might be appropriate where illegal sub-letting has been carried out on a commercial basis or where the investigation has revealed assets (e.g. another property) against which judgment can be enforced. This can include:

- rent arrears (usually claimed in possession actions)
- the illegal profit (plus interest) made by the original tenant after paying the proper rent due to social landlord
- damages for dilapidations
- fraudulently claimed benefits
- legal costs, and possibly
- the cost of keeping homeless family in temporary accommodation.

### EMPLOYEE

Traditionally attention has been centred on external fraud threats however the threats can also come from within. Whilst the majority of employees are honest and trustworthy there is a minority that are dishonest with the intention to defraud their employer. Employee fraud can be opportunistic in that it can be a completely unplanned attack purely for personal financial gain. However, employee fraud can also be linked to organised criminal networks.

Employee fraud can include:

- those relating to the payroll e.g. ghost employees, the submission of inflated or false timesheets, overtime, mileage or expenses claims and selling data to third parties
- the risk of failing to declare conflicts of interest and or gifts and hospitality.

The opportunity for recruitment fraud in the current financial climate is greater with more candidates applying for fewer jobs. The types of fraud in this area include concealing or falsifying employment history, misrepresenting qualifications and / or concealing unspent criminal convictions.

### COUNCIL TAX

The key fraud risk in this area is the avoidance of the liability to pay either in full or part. Traditionally the areas of fraud risk are centred on:

- single person's discount
- false claims for exemptions for individuals who are severely mentally impaired

## APPENDIX 1A: UNDERSTANDING FRAUD RISKS

- vacant properties.

However other fraud risks include:

- employees manipulating Council Tax records to divert funds for their own or another person's gain
- money laundering where cash payments of Council Tax are made
- third parties, who are neither the employee of a local authority or a Council Tax payee, who:
  - attempt to collect Council Tax fraudulently
  - make spurious claims for Council Tax refunds using account details of the genuinely liable party.

### BLUE BADGE

The misuse of blue badges can be categorised into two groups:

- abuse of badges which includes using a counterfeit badge, a lost or stolen badge or the badge of a deceased person
- misuse of genuine badges which includes using the badge when the holder is not present.

### GRANTS

The risk within grant spending depends on various factors such as the type of grant recipient, the purpose of the grant, the nature of the scheme and the scale of the award. For each type of grant, there is the risk of fraud both from external applicants and from staff. The Council offers a variety of grants relating to housing, school uniforms and disabilities. The nature of fraud associated with grant applications can be placed into three categories:

- misrepresentation by grant applicants
- not using the funds for the purpose for which they applied
- insider enabled fraud in respect of staff who create or assist in the creation of fictitious grant payments.

If successful these will result in a financial loss to the Council. In addition there is a reputational risk of adverse publicity where genuine applicants miss out on funding.

### HOUSING BENEFIT

Benefit fraud is committed when a benefit claimant fails to declare a change in their circumstances in areas of earnings, income or capital or conceal family circumstances to obtain benefits that they are not entitled to. This can happen from the outset of or during the lifetime of a claim. The legal duty to declare a claimant's true circumstances continues throughout the claim period.

### BUSINESS RATES

Business Rates fraud occurs when a person deliberately provides false information to the Council to receive relief on their rates. This could involve:

## **APPENDIX 1A: UNDERSTANDING FRAUD RISKS**

- falsely claiming that they are a charity when they are not
- misrepresenting the size of their business
- failing to declare their occupancy of a property or that their business premises is empty when it is not
- falsely claiming to be insolvent when they are not.

### **RIGHT TO BUY**

Right to Buy fraud occurs where a social housing tenant applies for, or completes the purchase of a socially rented home under the Right to Buy or Right to Acquire schemes and misrepresents their circumstances to either gain a discount they are not entitled to or exercised the right to buy/right to acquire when they are not entitled to.

The most common examples of this fraud are:

- misrepresenting the length of their tenancy to claim a bigger discount
- concealing a tenancy history, for example not disclosing previous rent arrears, possession orders, transfers or evictions
- attempting to purchase a property whilst not using it as their sole and principle home
- misrepresenting their household composition, for example, submitting a joint application with someone who does not reside at the property, or has not done so for the required period.

### **ABUSE OF POSITION**

Abuse of position fraud occurs when someone uses their position to commit fraud with the power they have to affect a financial control or system.

Examples include:

- misrepresentation on applications for:
  - financial grants to service users
  - reductions, discounts and exemptions to council tax and business rates
  - refunds of council money to themselves or another (council tax, business rates, insurance etc)
- continual payment of an employee's salary after they leave the Council to another person's account.

### **DIRECT PAYMENTS**

The sums involved in direct payments can be significant. The main risks associated with direct payments are:

- false or exaggerated claims of care requirements which would include a person falsely claiming that they require care, using false identities or exaggerating the amount of the care that they require

## APPENDIX 1A: UNDERSTANDING FRAUD RISKS

- fraud perpetrated directly against the service user by someone managing their funds which would include misappropriation of funds made by way of direct payment to the service user, perhaps by a family member or other trusted person
- fraud perpetrated by the provider of the care commissioned directly by the service user which might include under provision of services (e.g. not providing the hours of care contracted for), over-charging for services provided and duplicate invoicing to multiple invoices to local authorities.

### INSURANCE

There are three main areas in which insurance fraud can be categorised as:

- fictitious losses, incidents or injuries which occur when the third party deliberately presents a false set of circumstances and / or evidence for their financial gain
- staged incidents which occur when a claim is received in respect of damage, loss or injury that has been caused deliberately
- material misrepresentation or exaggeration of loss or personal injury which occur when genuine losses or incidents arise and the third party deliberately exaggerates the true extent of damage sustained or material loss or personal injury.

### SCHOOLS

Public Concern at Work (the national charity that supports whistleblowers) reports that 14% of its whistleblowing cases come from the education sector. Schools can fall victim to both internal and external fraud threats, for example those relating to;

- recruitment and payroll
- procurement and contracts
- changing of supplier bank accounts details, accounts receivable and payable
- false trading accounts
- finance leases.

The education landscape is changing with the emergence of Academies as well as Foundation and Free schools and with change, the risk of fraud increases.

### PUBLIC HEALTH – PAYMENTS TO CONTRACTORS

Since April 1<sup>st</sup> 2013, the Public Health function was transferred from the NHS to local authorities to deliver their statutory duty to improve the health of the local population. The service will commission a range of services to tackle health inequalities, improve health outcomes and address the social detriments of health.

As in all commissioning and procurement of services the risk from fraud is ever present. These areas include:

- pre-contract award fraud occurs where unlawful influence and collusion could take place corrupting the procurement phase
- post-contract award includes where contractors are overpaid through false / duplicate invoicing and where billed 'works' simply hadn't taken place.