

Southend-on-Sea Borough Council

Report of Corporate Director for Corporate Services

to

Audit Committee

on

14th January 2015

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**Agenda
Item No.**

Counter Fraud & Investigation Service Performance Report

Executive Councillor – Cllr Ron Woodley

A Part 1 Public Agenda Item

1. Purpose of Report

1.1 To update the Audit Committee on the:

- Council's compliance with the Fighting Fraud Locally requirements
- progress made in delivering the Council's Corporate Counter Fraud & Investigation Plan for 2014/15.

2. Recommendation

2.1 **The Audit Committee notes the:**

- **developments being made in the service**
- **progress made in delivering the requirements of Fighting Fraud Locally and the Corporate Counter Fraud & Investigation Plan 2014/15.**

3. Current Service

3.1 The Service Level Agreement with Thurrock Council to provide the Council with a counter fraud and investigation service was signed on 1 October 2014. The joint service is going to be called the Counter Fraud & Investigation Directorate (the Directorate), a public authorities collaboration hosted at Thurrock and Southend-on-Sea Borough Councils. The service will provide expert resources to prevent, detect and deter attacks on the public purse.

3.2 So the focus has now moved onto bringing the operational arrangements of the two Councils together, which includes:

- formalising working arrangements with other departments
- exploring the options available to introduce a more up to date IT system to support the combined team
- updating publicity material and combining reporting lines.

3.3 The Directorate has recently been successful in obtaining grant funding of £594k from the Department for Communities and Local Government to develop the service further. The funding will be used, as set out in the proposal, to:

- acquire a data aggregation tool to use internal and government data more effectively to prevent and detect fraud
 - increase the capacity for financial investigation and confiscation, taking redress against offenders where proportionate and appropriate
 - advance joint working with other agencies to prevent, detect and deter fraud.
- 3.4 The funds cover the period from December 2014 to March 2016.
- 3.5 Prior to this, a project had already been established to focus on social housing tenancy fraud until the end of the financial year. The objective of the work is to:
- develop joint working relationships with other social housing providers, sharing intelligence and resources in a co-ordinated manner
 - sign up five social housing providers to work jointly with the Directorate
 - train and accredit at least one staff member per social housing provider to work with the team as well as staff from South Essex Homes
 - recover at least seven properties and obtain two Profit Orders from this work.
- 3.6 This partnership approach will ensure that the new powers provided to Local Authorities under the Prevention of Social Housing Fraud Act 2013 can be accessed by these registered providers.
- 3.7 The expectation is that this project will help the Council:
- support more vulnerable families by providing accommodation to those on the waiting list as properties are recovered as a result of investigations undertaken
 - by recovering cash funds from people, where this line of action is appropriate, who have obtained property that they are not entitled to or are using it in a manner that contravenes their tenancy agreement.
- 3.8 The intention is now to extend this work with the grant funding monies received.

4. Future developments

- 4.1 The national local government counter fraud and investigation landscape is changing with:
- the demise of the Audit Commission in March 2015 and the transfer of its National Fraud Initiative to the Cabinet Office in due course
 - the creation of CIPFA's new Counter Fraud Centre, who will inherit the Audit Commission's staff and functions that support the production of Protecting the Public Purse
 - the Department for Work and Pensions creating the Single Fraud Investigation Service.
- 4.2 The data sets required by the Audit Commission to support the 2014 **National Fraud Initiative** were submitted by the Council on time in October 2014. The data matches from this exercise are expected in January 2015.

- 4.3 The **CIPFA Counter Fraud Centre** has been established to work with the Department for Communities and Local Government (DCLG), the National Crime Agency (NCA), the Cabinet Office and other agencies, to be a 'one stop shop' for fighting fraud. It is developing new tools, good practice and guidance as well as a CIPFA Accredited Counter Fraud Specialist qualification. It has also taken over responsibility for and is in the process of updating Fighting Fraud Locally, the Local Governance Strategy.
- 4.4 Attached as information items, are two recent national publications:
- Code of Practice on Managing the Risk of Fraud and Corruption by CIPFA's Counter Fraud Centre
 - Protecting the Public Purse 2014, Fighting Fraud Against Local Government by the Audit Commission.
- 4.5 Both reports set out good practice that should be applied by local authorities. The Council's Anti Fraud & Corruption Policy's compliance with these good practice requirements will be confirmed when it is refreshed in the coming months to reflect the new working arrangements.
- 4.6 In October 2010, the Department for Work and Pensions (DWP) and HM Revenue and Customs (HMRC) published *The Fraud & Error Strategy: Tackling fraud and error in the benefit and tax credits systems*.
- 4.7 The strategy recommended that all welfare benefit fraud be investigated by one organisation taking all existing responsibility from the DWP, HMRC and Local Authorities. The new service named the **Single Fraud Investigation Service (SFIS)** is to be:
- located in the DWP as a newly formed department
 - staffed by those employees from the DWP, HMRC and Local Authorities, who those organisations determine are 'in scope' to transfer over.
- 4.8 So from the 1st November 2015, the Directorate will no longer investigate housing benefit fraud. Any existing investigations will simply be handed over to SFIS to continue. As has been pointed out during the consultation process, establishing the SFIS goes against the principles set out in Fighting Fraud Locally, the government's overall strategy to tackle fraud, error and debt in local government. The indications are that many authorities will lose the majority if not all of their fraud investigation teams to SFIS leaving limited capacity to deal with any other fraud risks.
- 4.9 At present, no Council staff have been formally identified as "in scope" and therefore at risk of transfer to the SFIS. The strategy over the coming months is to re-profile the teams' work into other areas, primarily via the projects outlined above. However this situation will continue to be monitored until a final decision is required during the summer 2015.

5. Fighting Fraud Locally

- 5.1 Currently the key document that sets out how local authorities should operate to mitigate the risk of fraud and corruption is **Fighting Fraud Locally, the Local Government Fraud Strategy**. **Appendix 1** includes these requirements and shows that the Council has a good level of compliance with them although some documents need updating now to reflect:
- the joint operating arrangements now being implemented
 - national guidance issued recently or due shortly.

- 5.2 Actions required by the Directorate to fully implement aspects of this framework are referenced off to the Corporate Counter Fraud Plan attached at **Appendix 2** (see Section 6).
- 5.3 Overall, the main areas of work for the Council are:
- refreshing the Anti Fraud & Corruption, Whistleblowing and Money Laundering Policies / Strategies in conjunction with other services
 - updating the staff Code of Conduct and systems that evidence compliance in certain areas (e.g. arrangements for declaring hospitality and gifts and interests)
 - reviewing Privacy Notices (Fair Processing Notices) to enable more effective, appropriate, sharing of data.

6. Corporate Counter Fraud Plan for 2014/15

6.1 Appendix 2 summarises:

- outstanding actions identified from the Fighting Fraud Locally assessment
- the proactive work delivered so far this year and activities planned.

Bribery Act 2010 and Money Laundering

- 6.2 The Bribery Act 2010 created specific offences under Sections 1 and 2 of 'bribing' and being 'bribed' which apply to both private and public organisations where *"a person accepts a payment in return for manipulating the process or outcome of a public procurement in favour of a particular bidder"*.
- 6.3 Section 7 of the Bribery Act created an offence *"of a commercial organisation failing to prevent bribery"*. Although the offence by definition applies to commercial organisations, guidance states that covers organisations that are incorporated (by whatever means) or partnerships. It does not matter if the organisation pursues primarily charitable, educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made. It is clear that some public sector organisations will fall within the definition set out in Section 7 of the Act e.g. a company established by a local authority under the Local Government Act 2003.
- 6.4 The key defence, should a bribery allegation arise, is that adequate procedures are in place to prevent this occurring. One aspect of this is to:
- undertake risk assessments that are periodic, informed, documented and includes financial risks but also other risks such as reputational damage
 - provide refresher training for those activities highlighted as at risk.
- 6.5 In February 2014 new CIPFA guidance will be issued which outlines:
- continuing obligations on public authorities in relation to money laundering
 - the interpretation of the provisions of the Money Laundering Regulations 2007 and the United Kingdom's response to the European Union Third Money Laundering Directive.
- 6.6 The Council last formally assessed its risks in both these areas in 2010/11. Given the restructures in recent years, it is important that the:
- impact of the new money laundering guidance on both the Policy and the risk assessment is considered

- the service risk assessments are updated in both areas.
- 6.7 Therefore all Group Managers will be asked to complete a short survey in due course to assess whether their service activities have characteristics that might make them more of a potential target for bribery or money laundering. The purpose of this assessment is to confirm whether the Council has sufficient arrangements in place to counter these potential risks.
- 6.8 It will also be an opportunity to remind staff that breaches of the Bribery Act 2010 are punishable by unlimited fines and / or up to 10 years' imprisonment in the case of individuals. Further action can also be brought against "senior officers" of an organisation where it can be demonstrated that the offence took place with their consent or connivance.

7. Case Summary

7.1 **Appendix 3** summarises the work flow of the Directorate regarding Southend-on-Sea Borough Council cases, since April 2014. It shows that 575 referrals have been received. Of those that have been accepted as valid potential cases, a third have been dealt with and the majority of the remainder are under investigation with continuous work being undertaken to resolve those cases expeditiously. It also now sets out the:

- outcomes achieved in each of the fraud areas (although it needs to be noted that these are not included in the figures until the case file has been closed)
- financial values relating to open and closed cases.

7.2 An example of a recent success is where a female, who obtained a social housing property from the Council, lost her tenancy as a result of an investigation which identified that she failed to declare that she already had another social housing tenancy in South Yorkshire. The female had both properties since 2003 but lived with her mother at her address in Southend leaving both empty and unoccupied. The Judge at Southend County Court gave outright possession of the Council property to South Essex Homes after a trial which heard the evidence identified by CF&IS.

8. Corporate Implications

8.1 Contribution to Council's Aims and Priorities

Work undertaken to reduce fraud and enhance the Council's anti fraud and corruption culture contributes to the delivery of all its aims and priorities.

8.2 Financial Implications

Proactive fraud and corruption work acts as a deterrent against financial impropriety and might identify financial loss and loss of assets.

Any financial implications arising from identifying and managing the fraud risk will be considered through the normal financial management processes.

Proactively managing fraud risk can result in reduced costs to the Council by reducing exposure to potential loss and insurance claims.

8.3 Legal Implications

The Accounts and Audit (England) Regulations 2011 section 4 (2) require that:

The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of

internal control which facilitates the effective exercise of that body's functions and which includes the arrangements for the management of risk.

This proactive and investigative work undertaken by the team as well as the regular monitoring of compliance with the requirements of Fighting Fraud Locally discharges this duty.

8.4 People Implications

Where fraud or corruption is proven the Council will:

- take the appropriate action which could include disciplinary proceedings, prosecution and / or referral to the police
- seek to recover losses using criminal and civil law and compensation and costs as appropriate.

8.5 Property Implications

Properties could be recovered through the investigation of housing tenancy fraud or assets recovered as a result of criminal activity.

8.6 Consultation: None

8.7 Equalities Impact Assessment

The Counter Fraud Service Strategy has been assessed.

Assessments on the Anti Fraud & Corruption Policy, the Whistleblowing Policy and the Money Laundering Policy are updated whenever the policies are refreshed.

8.8 Risk Assessment

Failure to implement the framework which supports the delivery of the risk management policy and strategy and these policies increases the risk that Council' objectives will not be delivered. Failure to operate a strong anti fraud and corruption culture puts the Council at risk of increased financial loss from fraudulent or other criminal activity. Although risk cannot be eliminated from its activities, implementing these strategies will enable the Council to manage this more effectively.

8.9 Value for Money

An effective Counter Fraud Service should save the Council money by reducing the opportunities to perpetrate fraud, detecting it promptly and applying relevant sanctions where it is proven.

8.10 Community Safety Implications and Environmental Impact: None

9. Background Papers

- Fighting Fraud Locally, The Local Government Fraud Strategy
- Association of Local Authority Risk Managers (ALARM) Publication: Managing the Risk of Fraud
- CIPFA Publication: Managing the Risk of Fraud
- Audit Commission Publication: Protecting the Public Purse: Local Government Fighting Fraud.

10. Appendices

- Appendix 1: Anti-Fraud & Corruption Governance Framework (Fighting Fraud Locally)
- Appendix 2: Counter Fraud & Investigation Directorate Southend-on-Sea Borough Council Work Programme 2014/15

- Appendix 3: Counter Fraud & Investigation Directorate Southend-on-Sea Borough Council Case Summary to 30 Nov 2014