

Report of the Finance Director to the meeting of the Governance & Audit Committee to be held on 29th September 2016

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Subject:

Corporate Fraud Unit – annual performance information.

Summary statement:

The purpose of this report is to: Present the annual fraud performance information, as required by the Committee, to provide assurance that the Council's counter fraud arrangements are effective.

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Overview & Scrutiny Area:
Governance & Audit

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1. SUMMARY

The purpose of this report is to:

Present the annual fraud performance information, as requested by the Committee, to provide assurance that the Council's counter fraud arrangements are effective.

2. BACKGROUND

The Corporate Fraud Unit has reported to Committee, on counter fraud performance, since June 2012. The information in this report represents the performance of the Council's Corporate Fraud Unit during the period 1st April 2015 to 31st March 2016 and is shown in full at Appendix A.

3. OTHER CONSIDERATIONS

3.1 Referral and Investigation

In 2015/16 the Corporate Fraud Unit received 746 referrals alleging that fraud, theft and/or other financial irregularity was being committed against the Council compared with 2052* referrals in 2014/15. This was an expected reduction in referrals following the transfer of Housing Benefit investigation (including some resource – see section 5) to the Department for Work and Pensions Single Fraud Investigation Service (SFIS) on 1st April 2015.

*Of the 2052 referrals received in 2014/15, 1385 related to Housing Benefit.

The table below demonstrates the number of referrals accepted for investigation.

Table 1

	Total for Financial year ending 31st March 2016	Total for Financial year ending 31st March 2015
Investigations	574	877

Following the loss of referrals relating to Housing Benefit fraud and the loss of Corporate Fraud Unit staff (see section 5) the remaining dedicated resource has prioritised the areas of fraud / theft and/or other financial irregularity where the loss to the Council is significant and financial investigations may be appropriate.

The following table represents the types of fraud investigated in 2015/16.

Table 2

Type of fraud	Number investigated	As a % of total investigations
Social Care / Direct Payments	4	1
Revenues related*	314	55
Blue Badge	187	32
Grants	5	1
Social Housing Tenancy Fraud	42	7
Procurement	1	0
Theft (e.g. Council property, assets)	21	4

*Revenues related fraud refers to, for example, Council Tax liability, Council Tax Single Person discount, Council Tax Reduction scheme, any Business Rates related fraud or any other benefit, discount, allowance administered by the Council.

Whilst the vast majority of the investigations (87%), carried out in 2015/16, were “Revenues related” (see definition above) and Blue Badge misuse / abuse, an increased number of more complex investigations, in the other areas of fraud listed in Table 2, commenced. In 2016/17 this trend has continued.

In order to ensure that all Council staff are aware of their responsibilities, regarding reporting suspicions of fraud / theft or other financial irregularity, against the Council, a fraud awareness e-learning package was developed, in conjunction with the Council’s external Auditors, to be available for staff from 1st April 2016. For those Council staff without a PC a key messages brief was delivered via Managers Express. The results of introducing this package and the impact on the number of referrals received is yet to be analysed but will be reported to Committee in the next annual performance report.

3.2 Summary of performance in 2015/16:

Table 3

		Total for Financial year ending 31 st March 2016	Total for Financial year ending 31 st March 2015
Investigations (concluded in the period) uncovering fraud / theft and /or irregularity		384	589
	Including;-		
	Prosecutions (as a % of total investigations uncovering fraud/theft and/or irregularity)	43 (11%)	63 (11%)
	Other sanctions (as a % of total investigations uncovering fraud/theft and/or irregularity)	187(49%)	214 (36%)
	Dismissals (as a % of total investigations uncovering fraud/theft and/or irregularity)	10 (3%)	19 (3%)

Table 3 demonstrates that, of all the investigations where fraud, theft and/or irregularity were uncovered, 63% resulted in a prosecution or other sanction or in the case of a Council employee, a dismissal.

The remaining 37% did not fall into these categories for a variety of reasons. For example there may have been insufficient evidence to support a criminal prosecution or sanction but sufficient information to amend a benefit, discount or disregard and/or recover any losses.

Another example is relating to the misuse of Blue Badge investigations where evidence of misuse is uncovered but the Council accepts the mitigation offered and as it is a first offence issues a letter reminding the Badge holder and/or Badge user of the terms and conditions of the scheme. In 2015/16 121 of these letters were issued.

3.2.1 Other sanctions

The Committee will recall this refers to cautions, written warnings and administrative fines and in 2015/16 was the most popular outcome for those found committing fraud, theft or other financial irregularity. This is largely due to the regular programme of “action days” carried out by the Corporate Fraud Unit, in conjunction with the Council’s Parking Services, to combat the misuse and abuse of Disabled Persons Parking (Blue Badge) permits, work which continues to receive plaudits by the local mobility groups and the media.

In 2015/16 there were 38 Blue Badge action days which produced 62 cases for investigation, resulting in 2 prosecutions, 21 cautions and 37 written warnings.

3.2.2 Financial Investigation

Financial Investigation is an important tool in the fight against crime and it can provide valuable new avenues for investigations. The Proceeds of Crime Act (POCA) 2002 was not intended solely to seize the assets of those committing large-scale financial fraud, but also for those involved in low value, high frequency acquisitive crime.

The Corporate Fraud Unit has continued to integrate financial investigation across investigative processes in order to enhance the quality of investigations, disrupt criminality, protect communities and build public trust and confidence sending a strong message to both criminals and the community that “crime will not pay”.

The Committee will recall that where an investigation into fraud, corruption, theft or other financial irregularity is considered to be likely to result in a conviction, the Corporate Fraud Unit will refer all suitable cases for financial investigation (normally those where the loss is £5,000 or more) with a view to recovering monies, or property, obtained as a result of the crime. When appropriate, applications will be made to the Courts for restraint orders to freeze and stop the offender from dissipating assets. The Council will seek to recover assets by means of supporting confiscation order proceedings under the Proceeds of Crime Act 2002 or the Criminal Justice Act 1988.

In 2015/16 the Corporate Fraud Unit referred 4 new cases for financial investigation, to West Yorkshire Joint Services, made 1 application to the Courts for a restraint order and had 2 successful confiscation hearings relating to Housing Benefit, Council Tax Benefit and Mortgage fraud. The 2 confiscation hearings resulted in confiscation orders of £18,000 being awarded to the Council. Additionally there are 3 cases concluded in 2015/16 where confiscation hearings are timetabled later this year and it is expected that the confiscation orders made to the Council will be significant.

One such confiscation hearing is scheduled for December 2016 and follows one of the Corporate Fraud Unit's most complex and protracted investigations involving Adult Social Care Direct Payments fraud. A two year long fraud and financial investigation preceded a 6 week Crown Court trial where the defendant entered a not guilty plea to offences of misappropriation of funds amounting to, in excess of £138,000. He was found guilty by jury and a 42 month imprisonment sentence was imposed. The Proceeds of Crime confiscation hearing is likely to result in a significant confiscation order which will account for the Council's loss, any investigative and legal costs, and a further award based on a percentage of the proceeds of the crime.

3.2.3 Employee investigations

Employee investigations remain small in number and continue to account for only a relatively low percentage of the total investigations carried out by the Corporate Fraud Unit.

27 employee investigations were concluded in the year 2015/16 when 12 employees were dismissed or resigned prior to the disciplinary hearing and 4 others had final or written warnings or other informal action taken.

The Corporate Fraud Unit, in conjunction with Internal Audit and Human Resources continues to work with Council Departments, to keep instances of fraud, theft and/or financial irregularity, by Council employees, to a minimum.

3.2.4 Working in Partnership with Wakefield Metropolitan District Council

Following an initial pilot in 2015, to look at the feasibility of sharing investigative resource across Bradford and Wakefield Councils, on 1st April 2016, the Corporate Fraud Unit launched a second pilot to deliver fraud investigation services jointly, managed by Bradford. The success of the pilot will be reviewed in the autumn with a view to detailing options on the way forward from 1st April 2017. The Committee will be updated as to how this progresses.

3.2.5 Working with the DWP (Single Fraud Investigation Service)

Following the introduction of the Single Fraud Investigation Service, the DWP realised that only limited formal arrangements existed, between its SFIS Investigators and Council Investigators, to share allegations of fraud, data and intelligence; conduct a joint investigation and interview and pursue a single joint sanction. They realised that this would result in duplication, delay and wasteful use of resources for both the Council and the DWP and therefore In 2015, following Ministerial discussions, initiated by DCLG, a cross - government Joint Working Support Team was commissioned to consider the potential for collaborative working between DWP and LA Investigation Teams covering all administered benefits.

Bradford, along with numerous other Council's, had expressed concerns at the time about the impact SFIS would have on future collaborative working and questioned why the joint working approach, used by the DWP investigators and Council investigators for many years, was not been replicated post SFIS.

These concerns however were not addressed and Bradford, when approached by DWP, agreed to participate in testing "the new Joint Working approach" along with 4 other Council's (Swansea, Wandsworth, Hertfordshire and West Dumbarton).

The test went live in November 2015 and was originally intended to last for a minimum of 6 months, until May 2016 but this has recently been extended to November 2016 and two additional Councils, Wakefield and Sutton, have joined the pilot.

Since the start of the pilot to the 31st March 2016, the CFU engaged in 27 joint investigations of which 1 have been approved for prosecution so far. Since 1st April 2016 a further 64 joint investigations have been raised and are currently on going.

4. OPTIONS

Members may wish to request further action or investigation into any performance areas.

5. FINANCIAL & RESOURCE APPRAISAL

The Corporate Fraud Unit now consists of 11 staff - 1 manager/supervisor, 7 investigators and 4 support staff.

The cost of the unit in 2015/16 was £551,454, the majority of this being funded through the grants provided by the Department for Work and Pensions for the administration of Housing Benefit, as a decision to continue funding Council's for a maximum period of 12 months following the transfer of Housing Benefit investigation was made to allow Council's time to manage the transition. The Council's Corporate Fraud Unit lost 6 staff following the loss of Housing Benefit investigation.

In 2016/17 the grant from the DWP has been reduced leaving the Corporate Fraud Unit with a shortfall which it hopes to recoup through awards made under the Proceeds of Crime Act (See section 3.3 Financial Investigation).

In 2015/16 the Corporate Fraud Unit identified losses amounting to £957,000. £742,000 of this was actual recoverable financial overpayments obtained through fraud, theft or other financial irregularity and the remaining a notional loss from recovering properties, subject to tenancy fraud (National Fraud Authority notional loss £18,000 per annum per property), and preventing the misuse and abuse of Disabled Persons Parking (Blue Badge) (National Fraud Authority notional loss £499 per annum per blue badge permit).

An important element of assessing the value of a Corporate Fraud Unit is not just about measuring the identified losses but also being able to measure the deterrent factor having a dedicated Unit brings and the CFU will continue to explore how best it can measure this.

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

Counter fraud performance will continue to be reported to this Committee.

As previously mentioned, in section 5, funding for the CFU was largely covered in 2015/16 by a Government grant relating to Housing Benefit administration, which has subsequently been reduced from April 2016, following the Council's transfer of Housing Benefit fraud investigation on 1st April 2015. This reduction has created a pressure of £120k on the Corporate Fraud Unit budget which the Council aims to recoup through awards made under the Proceeds of Crime Act and/or any efficiency identified through the joint working with Wakefield (see section 3.2.4).

7. LEGAL APPRAISAL

The Council has the power to bring any criminal proceedings before the Court "in the interests of the inhabitants of its district" under section 222 Local Government Act 1972.

The Council Legal Service has been a key partner in the Council's counter fraud approach as it has provided specialist advice, support and services and ensured compliance with all relevant legislation pertaining to the prevention, detection and investigation of fraud, corruption and theft, (for example the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigations Act 1996, Regulation of Investigatory Powers Act 2000, Data Protection Act 1998).

8. OTHER IMPLICATIONS

8.1 EQUALITY & DIVERSITY

Some high level profiling is used to inform a risk based approach to investigation and to ensure the effective allocation of resources. However, all decisions on investigations are made on the facts of the case only.

8.2 SUSTAINABILITY IMPLICATIONS

None

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

8.4 COMMUNITY SAFETY IMPLICATIONS

The reduction of all crime, including fraud, corruption and /or theft, contributes to improving community safety.

8.5 HUMAN RIGHTS ACT

The Council's current counter fraud approach complies with the Human Rights Act, in particular in relation to surveillance and the right to privacy. All surveillance operations are formally approved in compliance with the Regulation of Investigatory Powers Act and Council protocols.

8.6 TRADE UNION

None.

8.7 WARD IMPLICATIONS

Counter fraud information is available by ward area if required.

**8.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS
(for reports to Area Committees only)**

None

9. NOT FOR PUBLICATION DOCUMENTS

None

10. RECOMMENDATIONS

That the Committee notes the key performance information at Appendix A

11. APPENDICES

Appendix A - Key performance information from 1st April 2015 to 31st March 2016

12. BACKGROUND DOCUMENTS

None

Appendix A - Key Counter Fraud performance information

Counter Fraud Performance Information 1st April 2015 to 31st March 2016				Total for the financial year ending 31st March 2015
	Employee	Citizen	Total	
Investigations Concluded in the period	27	580	607	877
Investigations where fraud / corruption theft or irregularity uncovered including:-	24	360	384	589
Prosecutions Concluded in the period	0	43	43	63
Other sanctions Cautions, fines, warnings concluded in the period	2	185	187	214
Dismissals Including resignations prior to hearing concluded in the period	10	n/a	10	19