

Report of the Director of Finance & IT to the meeting of the Governance & Audit Committee to be held on 23rd September 2021

Subject:

I

Corporate Investigations Unit – annual performance information

Summary statement:

The purpose of this report is to:

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

Equality & Diversity:

This report concludes there are no equality and diversity implications which negates the need for an Equality Impact Assessment.

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Portfolio:

Leader of the Council & Corporate

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1. SUMMARY

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

2. BACKGROUND

In common with other public bodies the Council has a duty to protect the public purse and this report details the role of the Corporate Investigation Unit (CIU) in the prevention and detection of fraud.

The work of the CIU underpins the Council's commitment to a zero tolerance approach to fraud, theft, corruption (including bribery), or any other financial irregularity committed against the Council.

This report represents performance information for the financial year 1st April 2020 to 31st March 2021.

3. OTHER CONSIDERATIONS

The Council's Corporate Investigation Unit is responsible for the investigation of allegations of fraud, theft, corruption or any other allegations of a financial nature, perpetrated against the Council, whether by citizens of the district, Council employees or other third parties.

The CIU comprises of **7** staff who are, or training to be, accredited with a Counter Fraud Specialist qualification and who ensure that all investigations carried out are in accordance with the relevant legislation and, where evidence of fraud, theft, corruption or any other financial irregularity is found, that the appropriate sanction is applied, in accordance with the Council's Sanctions Policy which has been previously approved by this Committee.

3.1 Response to the global pandemic

Due to the global pandemic, the financial year 2020/21 has been different from other years in that, the Government announced in March 2020 the intention to provide financial support for small businesses under a variety of funding schemes. During the reporting period, the CIU have received referrals in relation to the following four grant schemes; -

1. Small Business
2. Retail, Hospitality & Leisure
3. Discretionary
4. Local Restrictions Support

Every local authority nationally was required to distribute grants promptly to any business that met the eligibility criteria, set out by Government, ensuring that any deliberate manipulation and/or fraud, would be subject to claw back.

A digital assurance tool, namely Spotlight, was provided to the local authorities to assist with the checking of eligibility to the grants. The qualifying criteria for the four grant schemes is shown at **Appendix 1**.

The Revenues, Benefits and Payroll Service was designated to make payments on behalf of the Council for grant schemes 1, 2 and 3 returning any unspent funding once a full post event assurance process had been undertaken. The Economy and Development Service were designated to make payments on behalf of the Council for the discretionary scheme.

Table 1 below demonstrates the number and amount of grant distributed for Schemes 1-4, by the Council, during the financial year 2020/21.

Scheme	No. of grants paid	Amount
1&2 Small Business and Retail, Hospitality & Leisure	10,984	£124,743,394
3 Discretionary	1,018	£6,986,984
4 Local Restrictions Grant	16,488	£30,819,417
TOTAL	28,490	£162,549,795

During the national pandemic the work of the CIU was dependent on the restrictions in place, and during much of the year these restrictions limited the CIU's ability to undertake face to face interviews, interview witnesses and carry out Blue Badge misuse "action days".

This resulted in the CIU having some capacity to check the eligibility of businesses for each of the 4 schemes, by conducting desktop enquiries and drive by visits to potential dispute cases and to share local knowledge and previous fraud experience of named businesses.

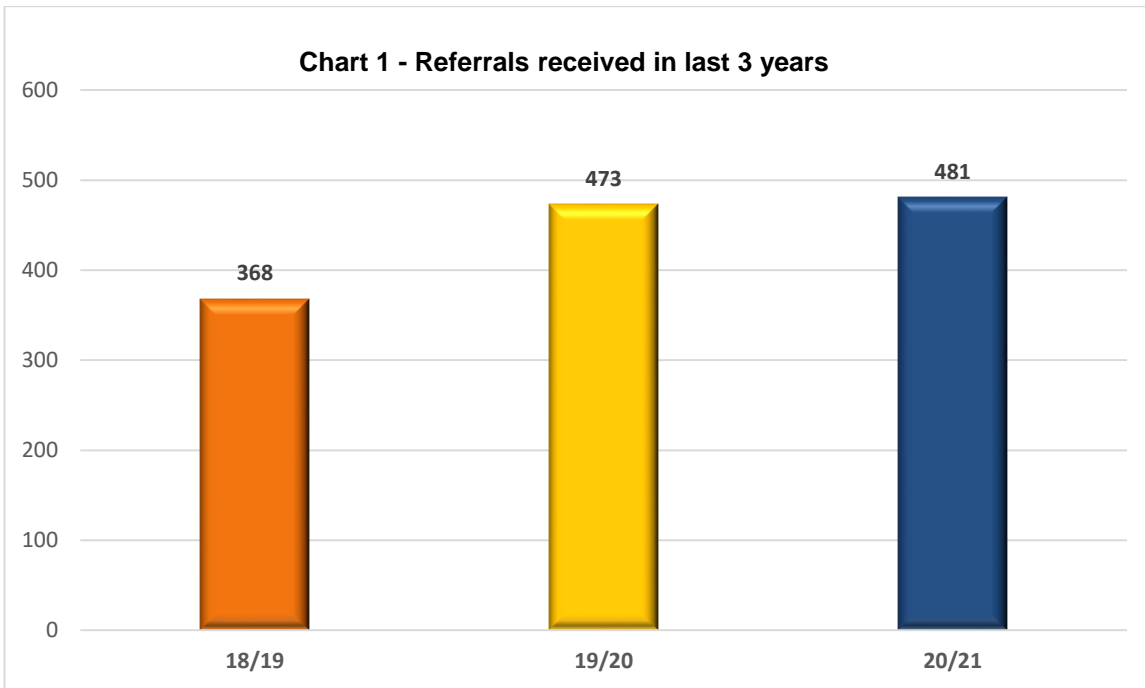
3.2 Referrals to the CIU for investigation

Chart 1 below shows the number of referrals received in the last 3 years. Of the **481** referrals made to the CIU in 2020/21, **201** were directly in relation to the COVID-19 grant schemes.

Where it was suspected that a fraud against the grant schemes was organised, large scale, systematic or crossed local authority boundaries then the Government Department for Business, Energy & Industrial Strategy (BEIS), advised local authorities that these referrals would be investigated by the Governments National Intelligence Service (NATIS).

During the financial year ending 31st March 2021 the Council made **1** referral to NATIS.

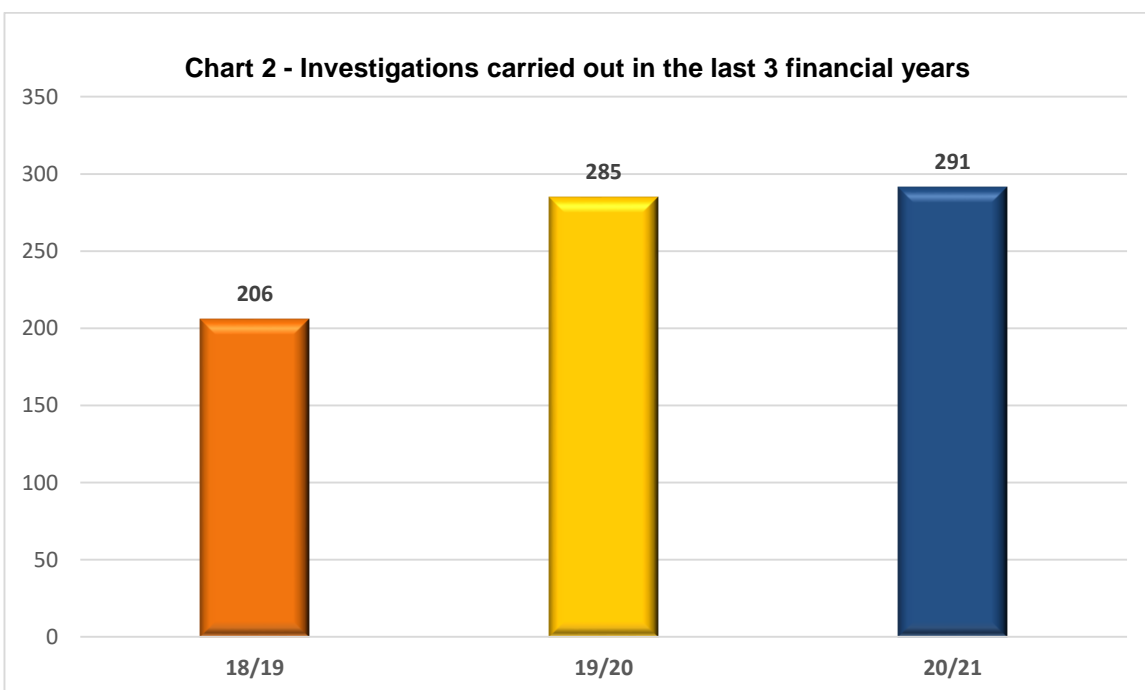
Chart 1 - Referrals received in last 3 years



3.3 Investigation

Chart 2 below demonstrates that the CIU concluded **291** investigations in the financial year ending 31st March 2021 with **151** concluded investigations relating to the COVID 19 grant schemes. The remaining concluded investigations, some of which were raised prior to the global pandemic, largely followed the national pattern of tackling issues in relation to 4 main types of fraud (by volume); Council Tax, Disabled Parking (Blue Badge), Social Housing Tenancy Fraud and Business Rates.

Chart 2 - Investigations carried out in the last 3 financial years



3.3.1 Summary of investigation outcomes

A concluded investigation will normally result in one of two outcomes – either evidence has or has not been found to support a finding of fraud, theft, corruption and /or other financial irregularity.

Chart 3 below shows that of the **291** investigations concluded in the financial year ending 31st March 2021, fraud, theft or other financial irregularity was found in **80%** (234) of the concluded investigations.

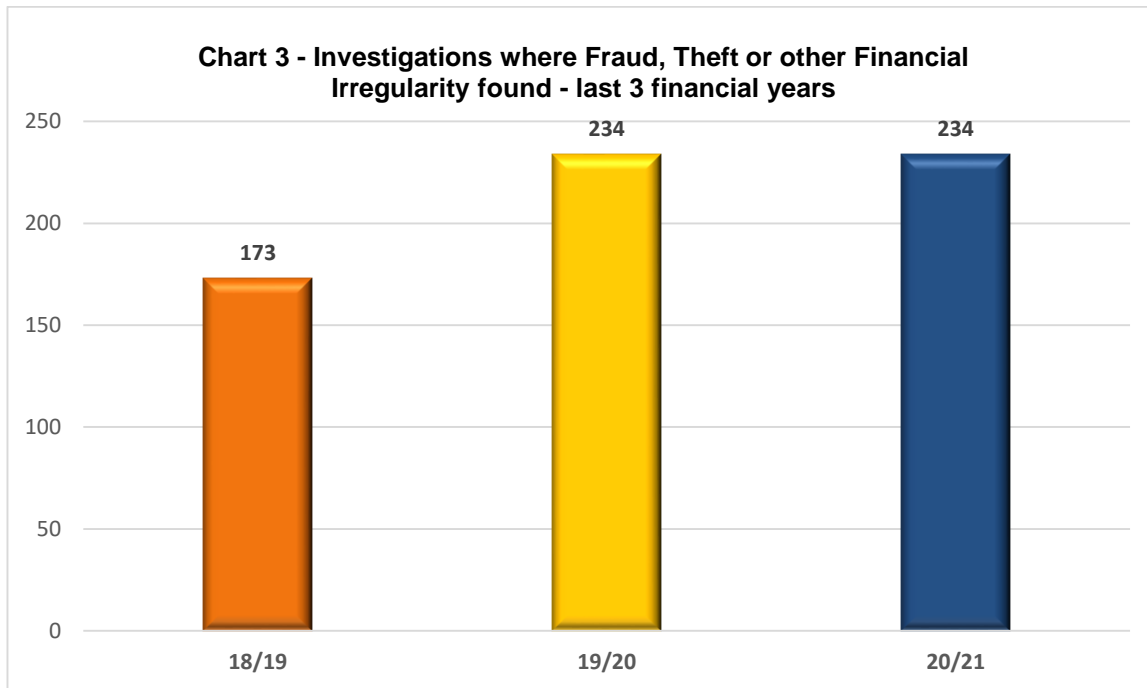


Table 2 below demonstrates the outcomes from concluded investigations (151) into the COVID 19 grant schemes.

Scheme	Correctly paid	Payment Prevented (Amount £)	Recovered in full or invoiced (Amount £)
Small Business	40	16 (£160,000)	79 (£800,000)*
Retail, Hospitality & Leisure	1	0	9 (£225,000)
Discretionary	0	2 (£9,000)	1 (£2,500)
Local Restrictions Support Grant	0	3 (£4,668)	0
TOTAL	41	21 (£173,668)	89 (£1,027,500)

*One business paid twice in error so recovering £20k

Where evidence has been found to support a finding of fraud, theft, corruption and /or other financial irregularity then, in accordance with the Committee approved Council's Sanctions policy, the appropriate sanction will normally be applied and attempts made to recover any financial loss.

Chart 4 below shows that in the financial year ending 31st March 2021 **71** concluded investigations resulted in a prosecution (9) or another sanction (62). The low number of prosecutions and sanctions was inevitable given that, due to the pandemic, the ability to interview under caution or put cases before the Courts was severely restricted.

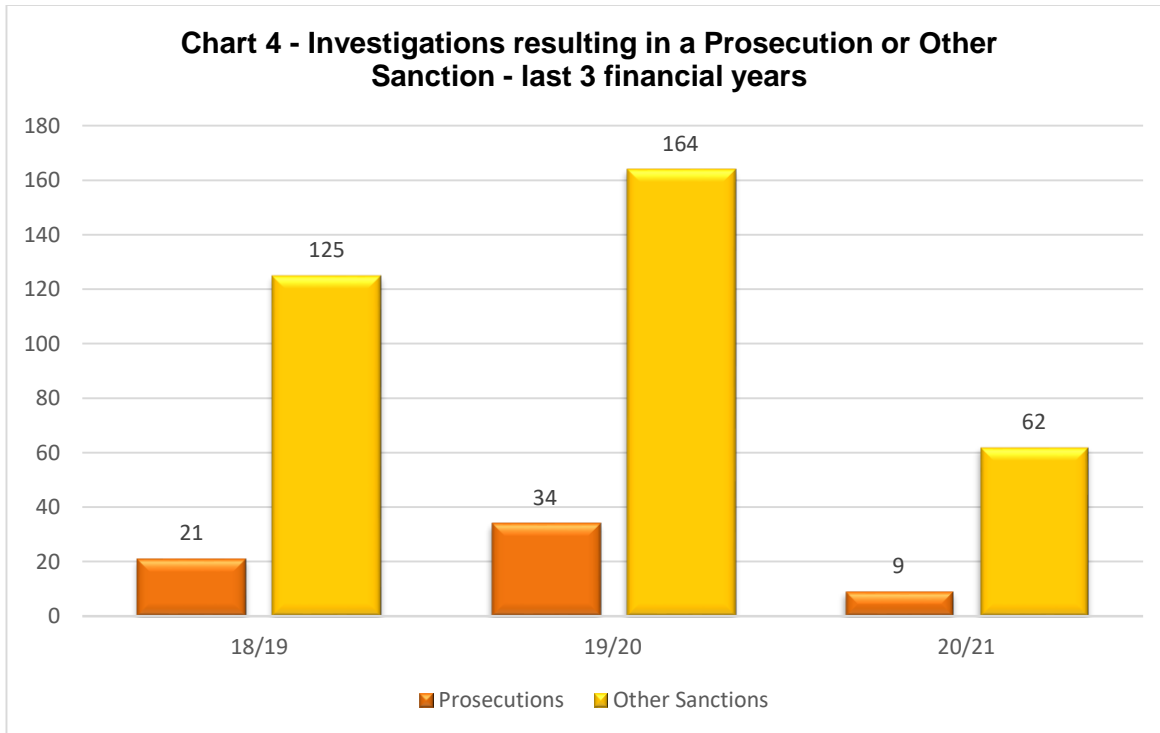
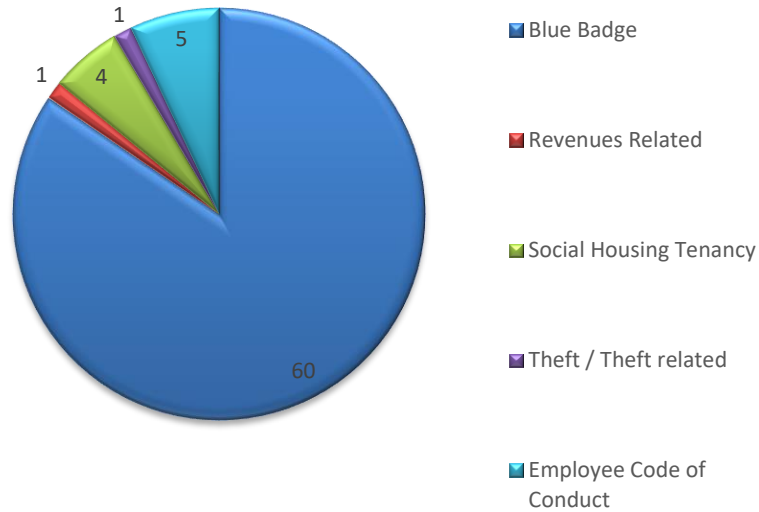


Chart 5 below shows the prosecutions and sanctions by type for the financial year ending 31st March 2021.

Of the **71** concluded investigations, where a prosecution or sanction resulted, none were in relation to the 3 COVID 19 grant schemes.

The necessity to distribute the COVID 19 grant scheme payments, to support local businesses, was unprecedented and following the receipt of the funding Government guidance was to ensure that this was distributed at speed by Council's. This inevitably resulted in some payments being distributed without a robust application and declaration process which prevented any further enforcement action by the CIU, other than the recovery of any loss, details of which are shown in Table 2 above and Table 3 (Section 4 "Finance & Resource Appraisal").

Chart 5 - Prosecutions and Sanctions by type 2020/21



3.4 Working in partnership

3.4.1 Internal partners

- **Neighbourhood and Customer Services**

Despite the restrictions brought about by the global pandemic, the CIU have continued to work with Parking Services Officers on Disabled Persons Blue Badge “action days”, to ensure that badges were being used correctly and not persistently misused.

5 “action days” have taken place in the financial year where up to **225** displayed badges were examined and verified. From these action days **6** CIU investigations into misuse/abuse were instigated, which to date have resulted in **3** Formal Cautions, **1** warning Letter and **1** awaiting a court date.

- **The Council’s Legal Services team** - a key partner in the Council’s counter fraud approach providing specialist advice, support and services to the CIU, ensuring 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 2018 the General Data Protection Regulations, Proceeds of Crime Act 2002 and Fraud Act 2006)

3.4.2 External partners

- **The Department for Work and Pensions (Counter Fraud, Compliance & Debt Service)** – The CIU works with the DWP to jointly combat fraud in Housing Benefit and Bradford Council’s Council Tax Reduction scheme (CTR).

In 2020/21, **3** cases were investigated jointly, resulting in **1** “alternative to prosecution” sanction and **1** joint prosecution being concluded to date. There are a further **5** legacy cases where prosecution action has been agreed and the cases are awaiting a court hearing date.

- **West Yorkshire Joint Services on Financial Investigation (POCA) cases** - Financial investigation is an investigative discipline concerned with forensically analysing the finances that relate to criminal activity. It is an important tool for the disruption of serious and organised crime. The Proceeds of Crime Act 2002 (POCA) is the primary legislation used in financial investigation and was created with the aim of removing assets from criminals, recovering the proceeds of crime and deterring and disrupting criminality. It confers a range of investigative powers as well as powers to restrain and confiscate criminal assets, via criminal confiscation, civil recovery, cash forfeiture and criminal taxation.

Where an investigation into fraud, corruption, theft or other financial irregularity is considered to be likely to result in a conviction, the CIU will refer all suitable cases to West Yorkshire Joint Services for financial investigation (normally, but not limited to, those cases where the estimated loss is £5,000 or more) with a view to recovering monies, or property, obtained as a result of criminal activity or criminal lifestyle.

During 2020/21, **3** ongoing POCA cases were concluded by the West Yorkshire Joint Services aggregating **£519,537** in repayments to the Council, in lieu of Court Orders.

Additionally, the West Yorkshire Joint Services referred **5** COVID 19 business grant investigations where Banks had raised concerns and following enquiries with the Banks, the CIU have **8** current investigations which should be finalised during the 2021/22 financial year and outcomes reported to the next annual Committee.

- **Registered Social Landlords** - To protect valuable housing stock the CIU has developed professional relationships with a number of Bradford’s registered social landlords where the CIU provide specialist investigative resource in relation to allegations of tenancy fraud including subletting, succession or any other forms of tenancy breaches.

In 2020/21, **19** cases of tenancy related frauds were investigated from the ongoing cases initiated prior to the pandemic and **4** properties have been recovered and returned for rightful occupation.

3.5 Fraud awareness for Council employees

The CIU is responsible for leading on any preventative work including fraud awareness training for all Council employees, a mandatory e-learning delivered as part of the induction for new employees and bi-annually for existing employees.

A review of the e-learning package is currently in progress and it is anticipated that this will be redesigned during the financial year 2021/22.

The Council’s internal and external website pages provide additional information on how to report suspicions of fraud and this remains a frequently preferred option for notification of alleged frauds, however, once again these pages are due to be reviewed and updated

accordingly.

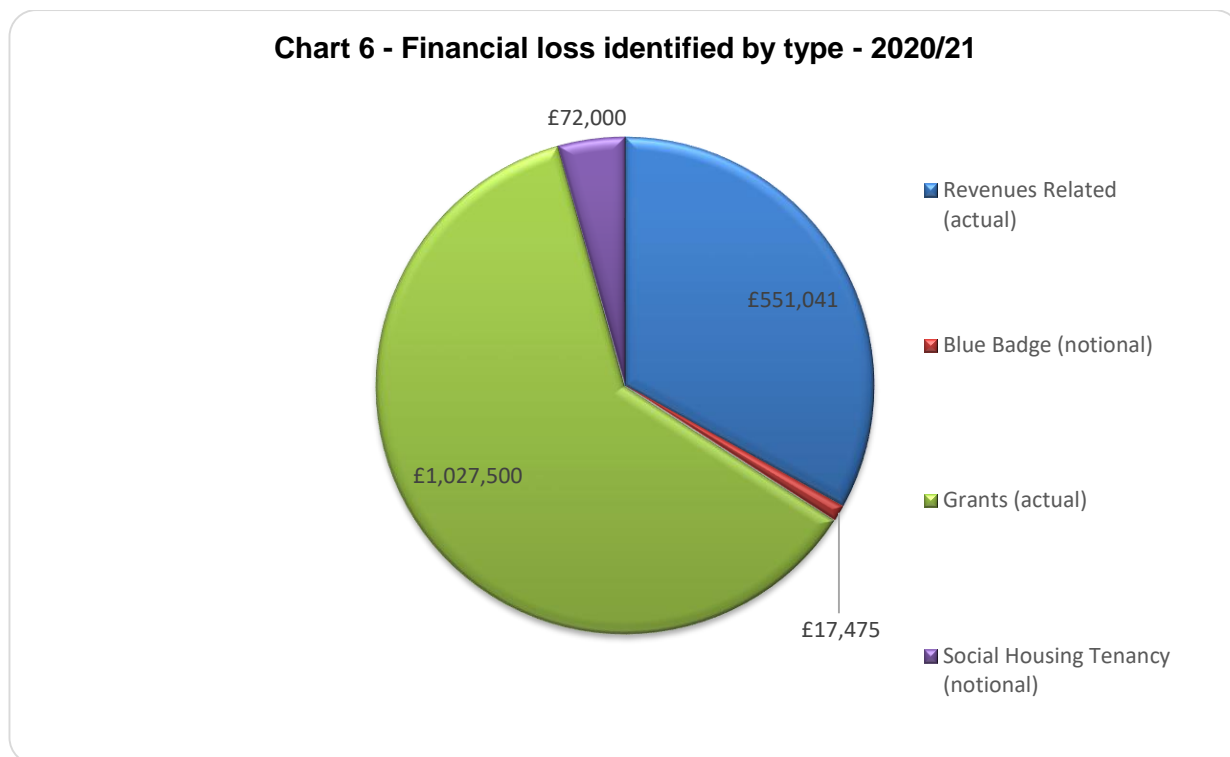
4. FINANCIAL & RESOURCE APPRAISAL

During 2020/21, the value of fraud prevented and detected by the CIU amounted to in excess of **£1.66m**, which includes cases in relation to COVID-19 grant schemes in excess of **£1m**. Although this figure of **£1m** is of concern, it should be noted in context of the amount that was paid out in COVID related grant schemes of **£162m**, signifying the loss identified is below the Government's estimated level of fraud and error of **1%**.

Of the total **£1.66m** fraud prevented and detected **£1.57m** was actual recoverable financial loss and the remaining a notional loss* (£89,475) from recovering properties subject to tenancy fraud and preventing the misuse and abuse of Disabled Persons Parking (Blue Badge).

*National Fraud Authority notional loss £18,000 per annum per property relating to Social Housing Tenancy Fraud and National Fraud Authority notional loss £699 relating to Disabled Persons Parking Misuse

Chart 6 below demonstrates the financial loss identified by type in 2020/21



In relation to COVID 19 grant funding, **£1,027,500** was deemed recoverable loss in the year ending 31st March 2021, of which **£532,500*** has been recovered.

**at the time of writing this report*

Table 3 below shows a breakdown of the payments recovered in full; -

Scheme	No. of Payments recovered in full	Amount recovered	£
Small Business	38	£380,000	
Retail, Hospitality & Leisure	6	£150,000	
Discretionary	1	£2,500	
TOTAL	45	£532,500	

44 additional cases, where recovery of grant scheme funding remains outstanding, are being collected, by debtors' invoice, by the Revenues, Benefits & Payroll Service debt collection team. The guidance from BEIS confirms that local authorities will be reimbursed for any unrecovered amount where they can demonstrate that they have taken all reasonable and practicable steps to reclaim any grant payment but have been unsuccessful.

Additionally, in the financial year ending 31st March 2021 the Council received; -

- **£14,965** as part of the confiscation orders, awarded under the Proceeds of Crime Act, relating to a financial investigation previously carried out by the CIU and West Yorkshire Joint Services.
- **£33,168*** as reimbursement of the Council's investigation and/or legal costs. These are awarded by the Courts in prosecution cases.

**includes a payment of £31,005 for legal costs awarded for a POCA case.*

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no significant risks arising.

6. LEGAL APPRAISAL

There are no legal issues arising from the contents of this Report.

In addition to its specific enforcement powers under numerous statutory provisions the Council has a general power under section 222 Local Government Act 1972 to bring legal proceedings before the Court where the "Local Authority considers it expedient for the promotion or protection of the interests of the inhabitants of their area.

Prosecution proceedings will only be issued after having due regard to the Code for Crown Prosecutors and the Council's Sanctions policy. As such prosecution proceedings will only be issued where there is sufficient and admissible evidence to provide a realistic prospect of conviction and where the prosecution is in the public interest.

The Code requires the decision to prosecute to be kept under continuous review, so that any new facts or circumstances, in support of or undermining the Council's case, are taken into

account in the Council's decision to continue or terminate the proceedings.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

There are no sustainability implications

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

None

7.3 COMMUNITY SAFETY IMPLICATIONS

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

7.4 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 required to be formally approved in compliance with the Regulation of Investigatory Powers Act 2000 and Council protocols. However, there were no surveillance applications requested during 2020/21.

7.5 TRADE UNION

There are no trade union issues arising from the contents of this Report.

7.6 WARD IMPLICATIONS

Counter fraud information is available by ward area, excluding employee investigations, if required.

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

N/A

7.8 IMPLICATIONS FOR CORPORATE PARENTING

N/A

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

N/A

10. RECOMMENDATIONS

That the Committee notes the extensive activities carried out by CIU to prevent, detect and deter the Council from instances of fraud, theft, corruption or any other financial irregularity.

11. APPENDICES

Appendix 1 - Qualifying Criteria for the COVID-19 grant funding schemes

12. BACKGROUND DOCUMENTS

None

Appendix 1

The qualifying criteria for Small Business Grants/Retail Hospitality & Leisure grants:

- Properties on the Valuation Office Agency (VOA) ratings list on 11/3/2020
- Business liable AND occupying those properties in receipt of Small Business Relief (SBR) or Retail Hospitality & Leisure (RHL) reliefs
- SBR businesses get £10,000
- RHL businesses with a Rateable Value (RV) of 15000 or below get £10,000.
- RHL business with a Rateable Value between 15,001 and 50,999 get £25,000
- Rateable Values of 51,000 and above do not qualify
- Businesses struck off, insolvent, in administration etc. do not qualify
- Businesses exceeding the State Aid limits do not qualify

The qualifying criteria for the Discretionary Scheme grants:

- Be a small or micro business
 - Have fewer than 50 full time equivalent (FTEs) employees, including the owner(s); and either:
 - Have a turnover of not more than £10.2 million in a year, or
 - Have a balance sheet total of not more than £5.1million
- Be an active business
The business must:
 - be trading on 11 March 2020
 - not be in liquidation, administration, insolvent or had a strike-off notice registered.
- Occupy property in the district

Property, or part of a property, which is in use and with either
 - a rateable value below £51,000 or
 - annual rent or annual mortgage payments below £51,000.and
 - have a business premises based in the district which will not include their home (Other businesses which are operated solely from domestic premises are excluded from this scheme).
- Demonstrate Impact of COVID-19-19
 - Be able to evidence a significant of loss of income due to the COVID-19 crisis.
- Be able to evidence total monthly fixed property overheads
- Don't exceed state aid limits

The qualifying criteria for the Local Restrictions Support Grant Scheme (Open)

Businesses may be eligible if it:

- is based in England
- is in an area subject to Tier 2 or Tier 3 local restrictions since 1 August 2020 and has been severely impacted because of the local restrictions

- was established before the introduction of Tier 2 or Tier 3 restrictions
- has not had to close but has been impacted by local restrictions

The qualifying criteria for the Local Restrictions Support Grant Scheme (Closed)

- in an area of local Tier 2 or Tier 3 restrictions and has been required to close because of local restrictions that resulted in a first full day of closure on or after 9 September
- in an area of local Tier 4 restrictions and has been required to close because of local restrictions that resulted in a first full day of closure on or after 19 December

Businesses need to show that:

- is based in England
- occupies property on which it pays business rates
- has been required to close for at least 14 days because of the restrictions
- has been unable to provide its usual in-person customer service from its premises

For example, this could include pubs and restaurants that operate primarily as an in-person venue, but which have been forced to close those services and provide a takeaway-only service instead.

Eligible businesses can get one grant for each non-domestic property within the restriction area