



WEST OXFORDSHIRE  
DISTRICT COUNCIL

## WEST OXFORDSHIRE DISTRICT COUNCIL

Name and date of Committee	<b>Audit and Governance Committee: Thursday 30 March 2023</b>
Subject	<b>Counter Fraud and Enforcement Unit Report</b>
Wards affected	All indirectly
Accountable member	Councillor Andy Graham, Leader of the Council Email: <a href="mailto:Andy.Graham@westoxon.gov.uk">Andy.Graham@westoxon.gov.uk</a>
Accountable officer	Emma Cathcart, Head of Service, Counter Fraud and Enforcement Unit Email: <a href="mailto:Emma.Cathcart@cotswold.gov.uk">Emma.Cathcart@cotswold.gov.uk</a>
Summary/Purpose	<p>To provide the Committee with assurance over the counter fraud activities of the Council. Direct updates will continue to be provided biannually.</p> <p>Work plans are presented to the Committee detailing progress and results for consideration and comment as the body charged with governance in this area.</p> <p>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.</p>
Annexes	Annex A – Work Plan 2022/2023
Recommendation	That the Committee considers the report and work plan at Annex A.
Corporate priorities	Modern Council Services and Sustainable Finance: Delivering excellent modern services whilst ensuring the financial sustainability of the Council.
Key Decision	No
Exempt	No
Consultees/ Consultation	<p>Work plans are agreed and reviewed regularly with the Deputy Chief Executive.</p> <p>Any Policies drafted or revised by the Counter Fraud and Enforcement Unit have been reviewed by Legal Services and have been issued to the Governance Group and Corporate Management for comment.</p>

## **1. BACKGROUND**

- 1.1. In administering its responsibilities the 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 a Councillor.
- 1.2. 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 priorities and community plans.
- 1.3. 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.
- 1.4. Work plans have been agreed with the Deputy Chief Executive and the Council's Management. 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.
- 1.5. Attached at Annex A is a copy of the work plan for 2022/2023.
- 1.6. The work plan for 2023/2024 is being finalised but will include 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;
  - A review of the Homelessness Rent Deposit Scheme;
  - 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. MAIN POINTS**

- 2.1. **Counter Fraud and Enforcement Unit Update**
- 2.2. The CFEU 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 – West Oxfordshire will also benefit within the CFEU Partnership although enquiries will be made with Thames Valley Police with a view to joining the Oxfordshire Group.
- 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 Deputy Chief Executive with suggested areas of improvement or future work streams. In addition, work will also commence with the Public Business Manager, Governance in relation to integrating the checklist standards within the Annual Governance Statements. 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. As previously reported as part of the post payment review, invoices totalling £713,287 have been raised and of this figure, £267,042 has been recovered. Following the receipt of further evidence and reconsideration of decisions, £64,040 has been credited after review. £382,205 remains outstanding. Examples of these cases relate to payments made to businesses that were not trading at the appropriate date, where premises were in fact empty or where duplicate payments have been made. To provide some context, West Oxfordshire District Council paid out £50,465,394 in business grants between April 2020 and March 2022.
- 2.8. Work has commenced regarding the new Energy Bills Support Scheme Alternative Funding and the Alternative Fuel Payment Alternative Funding Scheme.
- 2.9. 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.
  - In relation to the matches relating to the 2020/2021 and 2021/2022 data sets, the position is as reported in the November 2022 report. An update relating to increased Council Tax revenue and Penalty administration will be provided within the next CFEU report to the Audit and Governance Committee.
  - The team have received 1000 matches relating to the 2022/2023 data sets. There are still further matches to follow. These will be reviewed in due course.
- 2.10. This year, the review of the Housing Waiting included the verification of applications within Emergency Band (39 applications) and Gold Band (84 applications). This resulted in 41 recommendations being referred to the Housing Team. 4 Emergency Band and 10 Gold Band applications have been removed, 2 applications were downgraded. The review of the Silver Band applications is scheduled to be completed by 31 March 2023.
- 2.11. Each cancelled housing application represents a property which can be reallocated to another eligible family. The National Fraud Initiative applies a figure of £3,240 for each application removed, to represent the value of future losses prevented as a result of removing an applicant. This represents a saving on the cost of temporary accommodation. In addition, the result of the band re-prioritisation is that those families who are correctly banded have a greater chance of being housed and housed more speedily. The loss avoidance figure for this area of work so far is £45,360. This is in addition to the loss avoidance generated by the NFI Housing Waiting List review.
- 2.12. The Test and Trace assurance work is complete with 25% of all successful applications having been reviewed. 202 payments have been reviewed resulting in 45 cases of recovery totalling £22,500.
- 2.13. The team continue to work with ERS in relation to the Private Rental Sector Minimum Energy Efficiency Standards (MEES) Project. As part of a national drive, the Council is working with landlords to ensure their properties comply with these standards. Where

landlords continue to fail to meet the minimum standards, they may be subject to a penalty of £5,000 for each breach, enforceable by the Council. Following the initial review, the team have proactively reviewed 18 properties across the district in relation to landlords who failed to engage.

- 2.14. In addition to the work carried under the annual work plan attached at Annex A, as a dedicated investigatory support service, the CFEU 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.
- 2.15. 2022 / 2023 (to 28 February 2023):
- The team received 66 referrals from across the Council and closed 69 cases. This excludes any Council Tax Reduction Scheme referrals.
  - The CFEU supports Enforcement Teams across the Council. Work undertaken with the ERS and Planning Teams resulted in 2 successful prosecutions. A business pleaded guilty to an offence under the Health and Safety at Work Act and received a Fine of £5,400. Two individuals pleaded guilty to failing to comply with a Planning Enforcement Notice. They were fined £16,000. In both cases, costs were awarded totalling £4,380. In addition, 2 Fixed Penalty Notices, totalling £400, were issued in relation to environmental crime.
  - The CFEU undertakes Member Code of Conduct Investigations and found that there had been a breach relating to a Town Council matter. A Standards Panel was convened and the breach was upheld. Sanctions in relation to training were recommended.
  - The CFEU undertakes the investigation of alleged fraud and abuse in relation to the Council Tax Reduction Scheme (Council Tax Support) and act as the single point of contact for Department for Work and Pensions (DWP) Housing Benefit investigations. 66 referrals were received and 51 cases were closed. Increased Council Tax revenue of £9,669 has been raised. 2 Civil Penalties and 2 Criminal Penalties totalling £1,678 have been issued.
- 2.16. Between 1 April 2022 and 31 December 2022, the team received 7 referrals relating to disciplinary matters and closed 6 cases. Of the cases that have been closed, results as follows:
- 2 cases relating to offensive / abusive conduct – resulted in no further action.
  - 1 case relating to offensive / abusive conduct. The individual received a final written warning.
  - 1 case relating to falsifying of timesheets. The individual received a written warning for misconduct.
  - 2 cases were referred to HR, the CFEU were not further instructed.
- 2.17. **Regulation of Investigatory Powers Act 2000 (RIPA) / Investigatory Powers Act 2016**
- 2.18. 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.
- 2.19. The Policies were reviewed and presented to the Audit and Governance (General Purposes) Committee in November 2019; these were adopted by Cabinet in December 2019.
- 2.20. As reported in March 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.

- 2.21. The Use of the Internet and Social Media in Investigations and Enforcement Policy, presented to Audit and Governance (General Purposes) Committee in September 2021 and adopted by Cabinet in November 2021. The roll out of this Policy and associated Procedure across the CFEU Partnership has begun.
- 2.22. 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, Giles Hughes and the Authorising Officers are the Deputy Chief Executive, Elizabeth Griffiths and the Interim Head of Legal Services, Helen Blundell.
- 2.23. 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.
- 2.24. The CFEU delivered refresher training to all enforcement staff and the Authorising Officers in 2021.
- 2.25. There have been no RIPA applications made by the Council during 2022/2023, one application for communications data was submitted. There has been no Non-RIPA applications made during 2022/2023.
- 2.26. 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

### **3. FINANCIAL IMPLICATIONS**

- 3.1. The report details financial savings generated by the Counter Fraud and Enforcement Unit.

### **4. LEGAL IMPLICATIONS**

- 4.1. 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.
- 4.2. The Authority is also 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 recorded appropriately in the Central Register.

### **5. RISK ASSESSMENT**

- 5.1. The Council is required proactively to tackle fraudulent activity in relation to the abuse of public funds. The CFEU 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.
- 5.3. If the Council does not have effective counter fraud and corruption controls it risks both assets and reputation.
- 5.4. 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. EQUALITIES IMPACT**

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

## **7. ALTERNATIVE OPTIONS**

- 7.1. This Unit is working with all Gloucestershire Local Authorities, West Oxfordshire District Council and other public sector bodies such as housing associations.
- 7.2. The Service is a shared one across the County and, as such, overheads and management costs are also shared equally meaning there is increased value for money.

## **8. BACKGROUND PAPERS**

- 8.1. None.