

Agenda Item 6

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To	Audit Committee
Date	13 th March 2014
Subject	Annual Counter Fraud Report 2013/2014

RECOMMENDATIONS

The Committee is asked to consider the contents of the 2013/2014 Annual Counter Fraud Report

Background and definition

1. The terms of reference of the Audit Committee, as agreed at the meeting of 27th September 2012, include "Counter Fraud – to scrutinise the Council's corporate counter fraud arrangements". The primary action in this respect is to receive an annual Counter Fraud report.
2. Fraud is a general offence created in the Fraud Act 2006 and can be committed by
 - False representation
 - Failing to disclose information when there is a legal duty to do so
 - Abuse of position.

The maximum sentence is 10 years imprisonment.

Recent history of counter fraud in Mole Valley DC

3. The Council has traditionally maintained a Counter Fraud Team to deal with fraud in Benefits Claims. The team is funded mainly by a direct central government grant. In recent years, an attempt has been made to extend the remit of the team to consider counter fraud measures across the Council and beyond Benefits. However, no additional resources have been made available to the team and the outcome has been a transfer of, at best, 10% of the Fraud Manager's time to address corporate fraud issues.
4. The Council's Counter Fraud strategies include:-
 - raising staff awareness through a fraud newsletter and induction training for all new starters;
 - a range of policies relating to fraud on the Council's website (including anti-fraud and corruption, whistleblowing, code of conduct and bribery) and
 - carefully designed processes for handling funds which are subject to regular Audit checks and minimise opportunities for fraud through, for example, segregation of duties.

5. Our internal auditors, Baker Tilly (formerly RSM Tenon), undertook a review of counter fraud arrangements at Mole Valley in 2011 and are currently undertaking a follow-up review. Their original verdict was that the Council “has generally effective measures to counter fraud and corruption”. There were a range of associated recommendations that sought “to galvanise the existing arrangements through formalising them”. The follow-up has not yet been completed, though the scope of the review has been appended as Annex A to this report.
6. The Council has also produced a Fraud Response Plan which gives guidance to Senior Managers on action to be taken when fraud is suspected or discovered.

Current counter fraud priorities

7. The Audit Commission published their latest study, in a series of annual reports on fraud, entitled: “Protecting the public purse: Fighting fraud against Local Government” in November 2013. Their survey of fraud against local government bodies concluded that, nationally in 2012/2013, 107,000 cases of fraud were detected, with a value of £178m. This was a reduction of 14% on the volume of cases in the previous year. Housing Benefit and Council Tax Benefit accounted for two thirds of the total fraud loss.

Benefit Fraud

8. These findings reflect the emphasis of the efforts of the Fraud Team in Mole Valley. Their work is mainly focussed on Housing Benefit and Council Tax Support and / or Benefit. The latest statistics on the activity of the Team during 2013/14 (after 10 months) sets out the following:
 - 241 referrals received this year to date, compared to an annual average of 343 for the five full preceding years;
 - 196 referrals accepted (previous 5 year annual average: 260);
 - £100,000 overpayments identified (previous 5 year average: £169,000);
 - benefit savings of £115,960 (this is an annual figure based on the weekly amount of benefit reduced as a result of action taken, multiplied by 26 weeks, which is the estimated average duration of a fraud) -
 - 25 Sanctions applied to date - either prosecutions, cautions or fines (30 in 2011/12, 25 in 2010/11)
 - 3 Benefit Fraud Prosecutions plus 4 other prosecutions awaiting court hearing.

Housing tenancy fraud

9. The Team has also worked in partnership with Circle Housing Mole Valley (our largest Social Housing provider) to investigate and deter tenancy fraud. Housing Tenancy fraud can be described as
 - subletting a property for profit to people not allowed to live there under the conditions of the tenancy
 - providing false information in a Housing application to gain a tenancy
 - wrongful tenancy assignment and succession where the property is no longer occupied by the original tenant
 - failing to use a property as the principal home, abandoning the property, or selling the keys to a third party.
10. Unlawful occupation of social housing has a direct financial impact on local authorities because they are responsible for providing and paying for temporary accommodation for homeless

people who could otherwise be housed in permanent social housing. Tackling housing tenancy fraud is one of the most cost-effective means of making social housing properties available for those in genuine need. It has been estimated that nationally the cost to a LA of housing someone in temporary accommodation is approximately £18,000 per year.

11. This year the Fraud Team investigated 17 allegations of tenancy fraud. As a direct result of this investigation 8 properties have been recovered.
12. These allegations have been referred from anonymous tip-offs, or Circle Housing and Mole Valley housing staff identifying discrepancies that could indicate fraud. The Audit Commission has estimated that outside of London at least 2 % of Social Housing stock is subject to tenancy fraud.

Single Person's Council Tax Discount

13. In Autumn 2013, the Council took part in a review of all claimants of 25% Single Persons' Discount on Council Tax. This was a joint exercise with all Surrey's Districts and Boroughs as well as the County Council. The Councils employed Capita Local Government Services to assist with the review (funded by the County Council, who stood to gain the most from a reduction in discounts).
14. The total number of single adult discounts in Mole Valley was reduced by 150 from 11,300 to around 11,150 following mailed enquiries to claimants and a matching exercise using credit records, residency checks and other information. The result, in Mole Valley, was an increase in Council Tax payments of £60,000 of which the District Council's share is £6,000.

Changes and developments in counter fraud

15. In October 2010, the Department of Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC) jointly published a strategy for tackling welfare benefit fraud in collaboration with local authorities. This was refreshed on 6th February 2012 as part of a wider Government Strategy to reduce fraud and error. An integral part of this strategy is to develop a Single Fraud Investigation Service (SFIS) to investigate fraud across the benefit and tax credits system. The DWP Project Team have recommended that SFIS is introduced as a single organisation within DWP. This decision has been ratified by the Minister and SFIS is due to be implemented, on a rolling basis, between Autumn 2014 and Spring 2016. It is likely that the selected "pilot" authorities will transfer first and therefore Mole Valley are unlikely to be included in the early part of the implementation.
16. The current DWP planning assumptions are that, as SFIS is implemented:
 - The investigation of HB/CTB fraud will move to DWP
 - The investigation of LCTS/Tenancy Fraud etc will remain with LAs
 - The amendment of HB/CTB claims will remain with LAs
 - The calculation and recovery of any HB/CTB overpayments will remain LAs
 - DWP investigators will request information and evidence from LAs to support an investigation
 - SFIS will use single prosecution bodies (CPS for England)
17. This may have implications for tackling non-benefit fraud in the council as the resource at present is drawn from the margins of the benefits team. The council may need to explore the setting-up of a corporate counter fraud office at this time, though identifying the necessary funding will be an issue. The picture across Surrey is mixed: Reigate & Banstead have a dedicated corporate counter fraud team whereas Epsom & Ewell and Tandridge retain counter fraud teams in relation to benefits only. Further reports will be brought to Audit Committee as the timetable becomes clearer.

Audit Commission : Protecting the Public Purse 2013

18. The Audit Commission issued its annual local government fraud report in November 2013. Within the report the Audit Commission reports on local government anti fraud performance during the year, identifies existing and emerging fraud risks, and recommends action Councils should take. The report is critical of Councils that do not investigate any non-benefit fraud, and urges all to review policies to ensure that they are doing all they can to detect and record fraud cases.
19. The Government intends to introduce the centralised Single Fraud Investigation Service (SFIS), bringing together all resources currently targeted at investigating benefits fraud, on a gradual roll-out basis between Autumn 2014 and Spring 2016. In relation to the impact of SFIS , the report states that Councils should
 - maintain their capacity to investigate non-benefit fraud following the introduction of SFIS
 - follow the lead of London boroughs and focus more effort detecting non-benefit fraud
 - ensure they have right skills to investigate all types of fraud
20. In particular the report recommends that Councils:
 - pay regard to the National Fraud Authority (NFA) Fighting Fraud Locally strategy
 - work in partnership with local Housing Associations to maximise the benefit of the Prevention of Social Housing Fraud Act
 - explore joint working with other councils
 - work together with County Councils to tackle blue badge fraud in two tier areas
 - consider the impact of SFIS on the capacity to tackle non-benefit fraud, maintain capacity to investigate non-benefit fraud and work with SFIS to ensure the approach taken to benefit fraud continues to reflect local priorities and risks.
 - allocate sufficient resources to tackle fraud by focusing more on detecting and recording non-benefit fraud and targeting resources where they will produce most benefit.
21. The report mentions that councils who report little or no non-benefit fraud detection should consider whether they have enough investigative capacity, and are using it as effectively as possible. Also that fraud is endemic and that the level of detected fraud is significantly affected by the level and use of resources devoted to identifying, investigating and recording fraud. Organisations that do not look for fraud will not detect it. The risk that they will be unable to detect fraud after SFIS will be particularly acute for district councils, as any cuts in small teams could have a disproportionate and adverse effect on their ability to detect fraud.
22. The Audit Commission report also highlighted current and emerging fraud risks in some other areas, namely:-
 - Council Tax discounts – people fraudulently claiming available discounts and exemptions;
 - Procurement – e.g. collusion between local government staff and bidders, collusion between bidders, false claims for extra costs under a contract, inflating performance information to attract higher payments;
 - Internal fraud – includes abuse of position, payroll, expenses and miss use of resources
 - Disabled Parking Concessions
 - Business rates – false claiming of rate reliefs

National Fraud Initiative (NFI)

23. The NFI is an Audit Commission run national data matching exercise. The Council's data, including Benefit, Council Tax, Electoral Register, Payroll, Licensing, Accounts, insurance and parking permits, is matched against data provided by other local and central government bodies on a two yearly cycle. Matches that merit further investigation are returned to the providing bodies to consider for fraud or other irregularities. Generally up to 1,500 matches are received by MVDC on each 2 yearly cycle. 2013/2014 was subject to a full match. In total, 27 cases of fraud or error were identified and incorrectly awarded. Overpaid benefit of £51,000 was identified and is being recovered.

Resources for countering fraud at Mole Valley

24. Fraud Team – a team of 2.2 fte, dealing mainly with Housing and Council Tax benefit fraud and funded by central government to do so.
25. Internal Audit (Baker Tilly, formerly RSM Tenon) – a number of the audits within the annual plan are geared towards testing the controls and robustness of financial systems. Also, additional Audit resource can be negotiated to follow up on particular fraud-related issues or investigations.
26. All staff – as part of the induction process, a presentation on fraud is given to all new staff which focuses on their responsibilities in respect of fraud – to act with honesty and integrity, to conduct themselves in a professional manner, to pursue value for money and to highlight weaknesses in processes and policies. They are also introduced to the Whistleblowing policy. Existing staff are reminded of the counter fraud initiative through the regular newsletter. The latest example is presented at Annex B.
27. Liaison with other Councils and partnership with central government. Case studies and recommended practice are circulated by the Audit Commission and the National Fraud Authority. Mole Valley also liaises with district and borough neighbours and the County Council. As well as learning from others' experience, practical data sharing and matching exercises are undertaken.

Membership of Groups

28. The Council is a member of the following Investigation Groups

Local Authority Investigation Officers Group (LAIOG)

An organisation involving Local authority investigators. Its main functions are the provision of access to information relevant to the field of investigations, a communication network (via website) and dissemination of information to members.

National Anti Fraud Network (NAFN)

An evidence gathering organisation run by Local authorities. Provide secure and legal access to investigative data and intelligence, in particular relating to financial bodies, and other major institutions. NAFN also acts as source of investigation best practice.

Surrey Fraud Officers Group

MVDC has been instrumental in creating this group of Fraud managers working for Local Authorities in the Surrey area. The group held its first meeting in December, and has created an email contact list to enable liaison. The aim is this group to be a source of shared good practice, experience and potential joint working within the Surrey area. This is the first time that the creation of such a group has been attempted.

Corporate Implications

Legal Implications

There are no legal implications contained within this report.

Financial and Risk Implications

Financial and risk implications are considered in the report.

Equalities Implications

There are no equalities implications as a direct consequence of this report.

Employment Issues

There are no employment implications in this report.

Sustainability Issues

There are no sustainability implications in this report.

Consultation

There are no consultation issues in this report.

BACKGROUND PAPERS

Protecting the Public Purse – The Audit Commission, November 2013

SCOPE OF INTERNAL AUDIT REVIEW OF COUNTER FRAUD

A review is proposed to be undertaken in respect of reviewing the Counter Fraud Arrangements at Mole Valley District Council (the Council), with the aim verifying if previous recommendations (with regard to the arrangements), made in the follow up Internal Audit report (December 2013) have been progressed/completed. The assessment will incorporate a review of the current approach to counter fraud and a review of selected policies, with the aim of assessing the adequacy of the policies in respect of mitigating the risk of fraud and bribery. The identification of potential fraud risks areas and the provision of recommendations to mitigate the risks will be provided.

The review will involve assessing:

- The current Counter Fraud Arrangements at the Council with particular attention being paid to Corporate Fraud;
- The identification of controls in place to mitigate these risks and ensure the controls are adequate;
- The provision of recommendations to introduce or improve controls and where appropriate introduce new controls;
- The provision of recommendations where proactive reviews will be beneficial and assist with reducing the exposure to corporate fraud risks;
- The review will exclude benefit fraud and its primary focus will be on the assessment of corporate fraud.

It is intended that those involved in administering the Counter Fraud Review will have an increased awareness of fraud risks and the need to implement robust counter fraud measures thereby contributing to the development and maintenance of the anti-fraud and bribery culture at the Council.

Preventative counter fraud measures will be recommended to address system weakness identified during the course of the exercise.

Any instances of fraud detected will be highlighted to the Council and recommended for further enquiries.

2 Exercise Justification

The Council currently has a Fraud Team consisting of a Fraud Manager, Investigator and Intelligence Officer responsible for both benefit related fraud as well as corporate fraud. Currently the majority of the work conducted within the team focuses on benefit fraud.

In April 2014, the Department of Work and Pension will become a Single Fraud Investigative Service (SFIS). SFIS will become responsible for all investigations for social security benefits, tax credits and, when commenced, Universal Credits in England and Wales. SFIS will also be responsible for investigating these offences in Scotland.

The Council will abdicate the responsibility of investigating benefit fraud to the SFIS, but will retain the responsibility for investigating corporate fraud.

In order to ensure a seamless process the Council would like to assess the current approach to counter fraud and associated risks, and implement changes to mitigate the risks.

3 Methodology

The exercise will involve advisory review of the Counter Fraud Arrangements in place within the Council.

The review will involve interviews with key personnel such as:

- Counter Fraud Manager;
- Head of Housing;
- Risk Manager;
- Head of Human Resources

The exercise will consider the appropriate policies and procedures in place as part of the overall risk control framework. The review will involve an assessment of the following documents to establish if adequate counter fraud arrangements have been put in place to mitigate risk of fraud:

- Operational Risk Register;
- Anti-Fraud and Bribery Policy;
- Whistleblowing Policy;
- Fraud Response Plan;
- Recruitment Policy;
- Disciplinary Policy

4 Limitations

The findings of the review will be limited to enquiries conducted with individuals/documents listed in section 3 above.

The review will involve a holistic assessment of counter fraud arrangements with particular attention being paid to the arrangements for addressing corporate fraud.

The review does not provide any absolute assurance that material error; loss or fraud does not exist.

5 Timescale

The exercise commenced on **TBC** and it is agreed that the time spent completing this review shall not exceed 12 days. The work will be conducted by Baker Tilly on behalf of the Mole Valley District Council.

Fraud Newsletter

*Issue 11
January 2014*

Welcome to the latest update from the Council's Fraud Investigation Team.

Tenancy Fraud

Mole Valley District Council and Circle Housing Mole Valley are cracking down on tenancy fraud. Previously a civil offence, tenancy fraud has become a criminal offence following the introduction of the Social Housing Fraud Act, which received royal assent in January.

From April-September this year joint fraud investigations carried out by Mole Valley District Council and Circle Housing Mole Valley under the Social Housing Fraud Act resulted in 7 social housing tenants having their tenancies ended.

Tenancy fraud is defined as the unlawful occupation of social housing and includes acts ranging from acquiring a property or priority status based on false information to subletting a property without authorisation, failing to occupy or abandoning a property, or wrongly succeeding a tenancy after the original tenant has moved or passed away. Such fraud is believed to cost taxpayers £1.8 billion a year.

The partnership between Mole Valley District Council and Circle Housing Mole Valley - the largest Housing Association landlord in the district - works to identify and investigate allegations of tenancy fraud, with suspected cases being investigated by the Council's Fraud Investigation Team.

Those found to be committing such acts face a variety of penalties including prosecution, losing their council property, being excluded from applying for social housing properties in the future and being ordered to repay any rental income illegally obtained. Under the new law subletting has also become a criminal offence, carrying a potential two-year jail term, and offending tenants may also be forced to repay any profits made by sub-letting.

Fraud Awareness Training for Local Government

We now have the National Fraud Authority Fraud Awareness course loaded on e-Learning. This is a counter-fraud e-learning package designed to be used by all levels of staff within the Local Authority. The purpose of the package is to provide general fraud awareness information to staff.

The course will help you:

- become aware of the scale of fraud,
- be aware of what fraud is
- identify warning signs
- understand your role in preventing and detecting

- have an awareness of the Bribery Act 2010

The course will take approximately one hour, and at the end there is a knowledge check comprising 10 questions.

Go to Molly – My HR – Training and development – e-learning – proceed to MVDC staff e-Learning portal – my courses – Fraud Awareness

Whistleblowing

The Council Whistleblowing Policy encourages staff to report concerns, and provides support to protect those that do from recriminations. A copy of the full Policy can be viewed on Molly. If you are worried that something wrong or dangerous is happening at work, please don't keep it to yourself. Unless you tell us about fraud, corruption, safety risks or pollution, the chances are we won't find out until it's too late.

Issues that you might raise

Fraud and Theft – is someone claiming something that they are not entitled to? Examples include Benefits, Discounts, grants, contracts or obtaining a position with false information.

Danger to the Health and safety of people the Council are responsible for - this includes danger to its workforce and its customers.

Environmental Damage – relating to Council property and buildings.

Criminal activities such as bribery, corruption and 'back handers' involving people associated with or working for the Council.

People or companies **failing to comply with a legal duty.**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if that is what you want. At the appropriate time, however, you may need to come forward as a witness.

We hope that you feel able to tell your line manager. If for whatever reason you are uneasy about this or your manager's response doesn't seem right, you should contact one of the Whistleblowing named contacts.

If you want to talk to them in confidence, just say so.

If you prefer to put your concerns in writing, that's fine, but please tell us who you are. You may have more information than you realise.

Investigation Powers and Resources

Each bulletin I will be mentioning some of the powers and resources we have to aid in investigating fraud activity. Although you may already be aware of these, hopefully this will remind you of some of things we can do, and help you refer appropriate cases when you have a suspicion.

IUC Explanation

You will probably have noticed in press reports and these bulletins, the phrase Interview Under Caution (IUC), and wondered exactly what one of these is.

In brief an IUC is a formal interview carried out by an investigator with someone suspected of having committed an offence. It must be recorded, and usually this is done by use of a tape

machine. The purpose of the interview is to give the suspected person, the opportunity to explain the facts or evidence obtained, that lead the investigator to suspect that an offence has taken place.

The procedure of the interview and the investigators conduct during the interview is controlled by the Codes of Practice contained in the Police and Criminal Evidence Act (PACE) guidance. These are the same rules followed by the Police, and other investigatory bodies. Failure to follow these rules could result in the suspected person not receiving their full rights, and jeopardise any legal action taken in the future.

National Council Fraud and Corruption Stories

In recent months news agencies have reported an occurrence of fraud perpetrated by a Local Government officer.

A senior council officer embezzled £27,000 of Scottish tax-payers' money before securing a new top leisure job at Horsham District Council - which he held for two years before he was sacked.

The officer joined Horsham District Council in 2009 after leaving Falkirk Council in Scotland, where he was head of leisure services. However, a court recently heard that while he worked at Falkirk he had embezzled £27,152. The council said it knew nothing of the possibility of embezzlement charges resulting from his previous employment when he was employed - and had even taken up a reference from Falkirk Council.

The Officer had held various local authority posts across Scotland before joining Falkirk Council in 2004. His duties included staging music festival Big In Falkirk, and his position meant he could authorise payments for services provided by third parties. His line manager became suspicious of a payment made to a private individual. Enquiries identified that this payment was made to the officer's mother-in-law. This led to an internal audit at Falkirk and various other payments came to light. The officer admitted embezzling thousands of pounds when he appeared in court

The message from this national incident is clear. Don't assume that the Council is immune from attempts to defraud services, and that it won't happen here. Be aware of signs that could indicate that a colleague, councillor, contractor or a member of the public is committing fraud against the Council. If you have suspicions, report these to the Fraud Team or one of the Council's Whistleblowing contacts.

Contact

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