

CYNGOR SIR POWYS COUNTY COUNCIL

AUDIT COMMITTEE

22nd April 2015

REPORT AUTHOR: Income & Awards Manager (Resources)

SUBJECT: Corporate Fraud Team - Progress report

REPORT FOR: Information

1. PURPOSE OF REPORT

The purpose of this report is to update the Audit Committee on the proposed role and resourcing of the Corporate Fraud Team and provide an update on the transfer of staff to the Department of Work and Pensions (DWP) under the Single Fraud Investigation Service (SFIS) programme.

This report also highlights service priorities for 2015/16 and some activities undertaken during 2014/15 as part of the pilot scheme.

2. RECOMMENDATIONS:

That the Committee notes the service priorities and the outcomes of the pilot scheme.

3. SFIS PROGRAMME UPDATE

As previously reported to this Committee in October, the DWP announced the timetable for the transfer of local authority housing benefit investigators to the DWP in May last year. Within this timetable, the council was given a transfer date of the July 2015.

Council officers have met with DWP staff to facilitate the transfer and ensure that both the human resource and operational aspects of the transfer are properly managed.

The project is on track with the transfer expected to take place on the 1st July as planned. This will result in one member of staff transferring to the DWP. We have retained one member of staff who has now been appointed as Senior Investigator with responsibility for investigating corporate fraud activities within the authority and we are due to appoint an additional investigator in the coming months.

4. SERVICE PRIORITIES - CORPORATE FRAUD TEAM

The Corporate Fraud team will begin to focus upon the following areas in 2015/16:

- National Fraud Initiative Matches (statutory national exercise) *
- Single Point of Contact for Housing Benefit Fraud data transfer etc. to the DWP (residual work retained by the Council following the transfer of housing benefit fraud work to SFIS)
- National Non-Domestic Rates
- Council Tax (Reduction Scheme, second homes, single person discount etc) *

- Insurance
- Payroll, pension and expenses *
- Recruitment
- Blue Badge Scheme Abuse *
- Direct Payments *
- Procurement
- Grants
- Housing Tenancy Fraud *
- Right to Buy Fraud
- Employee *
- Fraud awareness training / fraud health checks for services
- Any other fraud issue which may emerge

The council has received allegations and has undertaken investigations into all those areas marked above with an asterisk* during the pilot phase of this activity and it is expected that these areas will remain priorities for the team.

Discussions with the DWP have also highlighted that whilst Council officers will no longer be responsible for housing benefit fraud investigation, they will have a role in directing these referrals to the DWP and dealing with queries on an ongoing basis. This support will be delivered under a Service Level Agreement with the DWP.

The Corporate Fraud Team will work alongside Internal Audit, Legal Services and Human Resources to ensure that genuine concerns about fraud and irregularities are reviewed and responded to in the appropriate manner.

Activities will include:

- Developing fraud awareness throughout the Council through development of e-learning and fraud champions
- Revising, drafting and communicating corporate policies including the Counter Fraud Strategy,
- Development of data analysis to identify areas which may indicate a high risk of fraud.
- Actioning intelligence obtained from the National Fraud Initiative data matching exercise.
- Explore commerciality options for the service as an income generator

5. PERFORMANCE MEASURES

We propose to measure our success via the following Key Performance Indicator's:-

- 1) Total Weekly Income Savings
- 2) Total overpayments raised
- 3) Total overpayments recovered
- 4) Number of cases investigated
- 5) Number of frauds found
- 6) Number of prosecutions
- 7) Number of errors found

It is not proposed to have performance targets in this area given the nature of the work

However it is suggested that a minimum threshold to be gained should be set against the weekly income savings. This would be set at cost plus 50%, thus ensuring the council gets an effective return on its investment.

We will also look to:-

Monitor the quality of corporate fraud referrals on a monthly basis.

Report regularly to Senior Management on key findings / significant cases

Production of an annual report to the Audit Committee

Providing output results to the Audit Commission and other bodies when required.

6. LEGISLATION

Any investigations conducted in this area are governed by legislation, which includes the following (not exhaustive):

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996 (C.P.I.A)
- Data Protection Act 1998
- Freedom of Information Act 2000
- Human Rights Act 1998
- Regulation of Surveillance and the Investigatory Powers Act 2000 (RIPA)
- Criminal Justice Act 1987/1998
- Criminal Justice & Public Order Act 1994
- Criminal Law Act 1977
- Council Tax legislation 1996
- Housing Act 1996
- Prevention of Social Housing Fraud Act 2013
- The Social Security Administration Act 1992
- The Social Security Administration (Fraud) Act 2001
- Fraud Act 2006
- Forgery and Counterfeiting Act 1981
- Criminal Attempts Act 1981
- Social Security (Loss of Benefit) Amendment Regulations 2010 (One Strike)
- The Bribery Act 2010
- Theft Act 1968
- Public Interest Disclosure Act 1998 (Whistleblowing)

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

Funding for the Corporate Fraud Team

The potential cost of a CFIT will be around £90-£100k. A rough budget guide would be as follows.

| | |
|--------------------------------------|---------------|
| <u>2 x fte Investigator salaries</u> | <u>- £70k</u> |
| <u>Training</u> | <u>- £ 2k</u> |
| <u>ICT Systems</u> | <u>- £10k</u> |
| <u>Operational Costs</u> | <u>- £12k</u> |

Proposed Funding Model

- a) Initial set up costs absorbed from corporate funds

b) 2015/2016 and onwards operational costs met each year from central funds.

Fraud investigation activity will develop a weekly income savings (WIS) total on each case. This is based on an industry standard of **Total weekly income saved x 52 weeks**. The 52 weeks denotes how long on average a fraud would have continued if it hadn't been detected.

This figure represents an income saving for the council as the income would have continued to be given out and effectively "lost". This will build up over all cases of fraud and error found and proven in any case.

Therefore as this information is collated, it will be easy to establish how much income has been saved to the council via the CFT's work.

If the income saved is higher than the operational cost of running the team this is a saving to the council.

It is proposed that this forms the base line approach to ensure there is adequate return on investment for the council in this area.

c) Mixed Funding Approach

There is opportunity to gain other income from the corporate fraud activity.

- i) Costs recovery applied for via POCA or courts.
The service can apply for its costs to be recovered from the offender via a POCA or court. Where this is agreed, it is proposed that this funding would go direct to FF500 account as an income code. This will not generate high amounts of income, and it would be very hard to establish a regular income source that would reduce the need for corporate funding.
- ii) Overpayments that are created as a result of the investigative work and then recovered.
On various cases an overpayment of income will occur and we will seek recovery from the offender via sundry debts. When that overpayment is recovered, that is income back to the Council and specifically to the Service Area that lost it.
On recovered overpayments it is proposed that that a percentage is allocated to FF500 as an income. The Service Area would never have recovered that money if it had not been for the work of the CFT and therefore the loss of say 20% of what is actually recovered is still an 80% gain to the service area.
Over time a "pipeline" of income would occur from recovered overpayments and this may create a steady flow of income into Income and Awards.
- iii) Service Offer to external agencies
We would develop a service offer to external agencies that would revolve around
 - i) Data and intelligence gathering
 - ii) Investigation of fraud and error
 - iii) Development, training and consultancy around corporate fraud awareness, development and antifraud policies
 - iv) Prosecution where required

This would require the development of professional marketing and commercial input as well as accurate costing it correctly into the market place. Once established it would be a potentially lucrative selling point for many different agencies. Again monies generated would go to ff500.

At the end of each year the total income generated from all 3 areas above would be costed.

It is proposed that an agreed percentage would be retained by income and awards for service development and investment

The remaining balance would be used to reduce the cost of the service in the following year.

d) Other Options

There are 2 other funding options

- 1) As this is a corporate service, a recharge is made to all service areas to cover the cost of service.
- 2) The service makes an internal service offer to each service area who would decide if they wanted the work at an appropriate price.

There are drawbacks to both these options but they should be considered.

The Corporate Fraud Team will provide services associated with the prevention of fraud within the Council's functions identified under the above service priorities.

These areas potentially present the risk of significant financial loss to the Council and the introduction of the Corporate Fraud Team will mitigate the risk of financial losses.

8. Corporate Fraud Pilot in Powys.

Since April 2014 the Head of Business Services (following discussions with the Strategic Director Resources) has asked Income and Awards in co-operation with Internal Audit to carry out corporate fraud investigations alongside its benefit investigation work. Since April, 86 cases have been under investigation. They have included direct payments, tenancy fraud, Council Tax, Blue Badge misuse, Business Rates, Parking abuse and employee fraud. Although there is no formal referral mechanism in place at the moment, the Income and Awards team has promoted its intended activity to service areas concerned about fraud abuse which has resulted in these cases being referred. We have also received complaints about blue badge, employee and direct payment fraud directly from members of the public.

142 cases have been subject to an investigation/ review and **£289,041** has been identified as potential fraudulent/error overpayments during the period of the pilot. £40000 of this was part of a DWP overpayment in respect of the Independent Living Fund which they administer to those who need assistance with care. However it is noted that this service transfers to local authority ownership in July 2015 and thus we will have responsibility for safeguarding and recovery of its funds in future.

3 cases have been successfully prosecuted for fraud by our own legal team and proceeds of crime applications have been successfully applied for the recovery of monies.

Tenancy Fraud Case study A : Mrs J

Case referred to Investigator regarding concerns regarding current declared Landlord on privately rented property.

Extensive Investigation revealed:

Mrs J had no rent liability on current declared residence (fictitious Landlord) so Housing & Council Tax Benefit cancelled

Mrs J previously obtained a tenancy on a Council Property and then exercised Right to Buy purchasing this property in 2004 and then rented it out, owning this property or the rental income was never declared to Powys CC when claiming Housing & Council Tax Benefit from 2008

Mrs J made a false application for a further Council tenancy in 2008 (did not declare that she owned her own property or that she was living rent free in a property owned by her parents) and claimed Housing & Council Tax Benefit

Investigation continues currently into false application for and 'right to buy' Council property in 2004, which may substantially increase overpaid monies as discount was applied on the right to buy property purchased by Mrs J; in addition to the cost of housing another family in temporary accommodation.

Overpayments as a result of this investigation so far:

Housing Benefit £14,271.44

Council Tax Benefit £2,784.99

Housing another family in temp accommodation due to unlawful to tenancy **£5,287.50**

Total cost to Powys = **£22,343.93**

Proceeds of Crime was used to recover funds owed to the council.

Direct Payment Fraud Case Study B : Mr R.

Initially began as an investigation into Housing & Council Tax Benefit claim regarding undeclared Capital, Savings & Investments.

Claim was based upon entitlement to Income Support initially, then latterly Pension Credit; thereby securing full Housing and Council Tax Benefit and Discretionary Housing payments (all means tested Benefits).

Investigation revealed Mr R had Capital in excess of £40,000 for a number of years whilst claiming the above means tested Benefits and failing to declare his true Capital.

Further/wider investigation revealed that Mr R had in fact obtained Direct Payments (personal budget) for a number of years which is also a means tested payments (relevant to the period in question) based upon false declarations of his Capital, Savings & Investments.

Mr R was also in receipt of funding from the Independent Living Fund (administered by the DWP); this was also considered within this investigation; revealing that he had once again made false statements to obtain these payments by failing to disclose his capital.

Overpayments as a result of this investigation:

Income Support £26,653.76

Pension Credit £13,833.36

Housing Benefit £18,755.92

Council Tax Benefit £2,776.36

Discretionary Housing payments £1,568.29

Direct Payments (Personal budgets) £26,747.60

Independent Living Fund payments £40,000

Total Cost to Powys CC = **£49848.17**

Total cost to DWP = £80487.12

NOTE – this person was found guilty of all charges in crown court. A proceeds of crime order was successfully instigated to recover all monies due to the council.

Employee Fraud case Study C: Mr H.

Allegation received that Mr H, employed at that time by Powys County Council, and was at that time on 'long term sick leave'; was in fact carrying out work for another organisation at the same time.

Mr H was in receipt of full sick pay from Powys County Council.

Extensive Investigation revealed that Mr H had been working as a self-employed driver for another organisation for the duration of the period he had been signed off as 'unfit for work' for Powys County Council.

Overpayments as a result of this Investigation

Gross pay £10,575.26

On Costs £739.67

****The above monies sought to be recovered from Mr H's Pension fund with Powys County Council (Under Proceeds of Crime Act)**

Mr H was also dismissed from his position following this investigation.

At Court Mr H pled guilty to all charges and was ordered to pay £500 towards costs and victim surcharge £60

Blue Badge Fraud case Study D: Mrs J.

Case passed for investigation following a referral from Hereford Council Parking Enforcement Officers, following their issuing a parking notice (fine) for a car parked in a Disabled bay, displaying a Disabled person's Blue Badge (albeit incorrectly displayed)

The Parking Enforcement Officer had established from the driver and passenger of the vehicle that the rightful owner of the Blue Badge was not present in the vehicle nor had travelled in the vehicle that day even.

Investigation established the owner of the vehicle in question; Mrs J.

Mrs J was interviewed under caution and admitted the alleged offence.

The Blue Badge that was misused has been retained by Powys County Council and the rightful owner has not requested its' return.

Mrs J was formally cautioned by Senior Officer of Powys County Council.

Direct Payment Abuse Study E : Mr Z.

Case was referred for investigation following Visiting Officers attending the sister-in-law of Mr Z; to obtain details of Mr Z's Capital/Assets for the purposes of assessment and consideration of funding for Residential Care. After the visits, there appeared to be a discrepancy in the amount of capital expected to be held and actually held; relating to the funds in one of Mr Z's Bank Accounts.

Investigation revealed that there was a deficit of over £11,000 Capital in MR Z's Bank Account, monies that his sister-in-law confirmed she had spent, when interviewed. This deficit in Capital meant that the assessment and therefore payments made for Mr Z's residential care were incorrect.

Overpayments in this case

£4912.76 for Residential Care payments

**The Investigator has recovered these monies in full from Mr Z's sister-in-law and Powys County Council will not continue funding Residential Care funding until his Capital falls legitimately within the funding guidelines