

17 March 2015		ITEM: 9
Standards & Audit Committee		
Counter Fraud & Investigation Service Update Report		
Wards and communities affected: All	Key Decision: No.	
Report of: David Kleinberg, Group Counter Fraud & Investigation Manager		
Accountable Head of Service: Sean Clark, Head of Corporate Finance		
Accountable Director: Sean Clark, Head of Corporate Finance		
This report is Public		

Executive Summary

This report provides an update to the Committee on the Council's continued compliance with requirements of the government's Fighting Fraud Locally strategy, and progress made in delivering the Council's Corporate Counter Fraud & Investigation Plan.

1. Recommendation(s)

- 1.1 That the committee notes the developments being made in the counter fraud & investigation service.**
- 1.2 The Committee notes the progress made in delivering the requirements of Fighting Fraud Locally and the Corporate Counter Fraud & Investigation Plan 2014/15.**

2. Introduction and Background

- 2.1** The provision of a corporate-wide service targeting fraud risk was agreed by Directors Board on 10th February 2015. The new service named the Counter Fraud & Investigation Service, moves away from the traditional benefits only fraud service to ensure a strategy is in place to ensure all the council's fraud risks are mitigated.
- 2.2** The service also successfully bid for central government funding of £594k to develop the Counter Fraud & Investigation Service, designed to share best practice and specialist resources from Thurrock Council with other public authority partners in the region, such as local councils, housing associations

and charities over the next 2 year period. A project plan for that Counter Fraud Fund Project is shown at **Appendix 1**.

- 2.3 This Counter Fraud Fund project will see the service:
- acquire a data aggregation tool to use internal and government data more effectively to prevent and detect fraud;
 - increase the capacity for financial investigation and confiscation, taking redress against offenders where proportionate and appropriate; and
 - advance joint working with other agencies to prevent, detect and deter fraud.
- 2.4 In October 2014, a Service Level Agreement was signed with Southend-on-Sea Borough Council to provide a counter fraud and investigation service jointly across both authorities. The service, incorporating central government partners, is named publicly as the Counter Fraud & Investigation Directorate (“CFID”), a public authorities collaboration hosted at Thurrock Council. The service will provide expert resources to prevent, detect and deter attacks on the public purse by economic crime across central and local government organisations with particular focus with Thurrock Council & Southend Borough Council.
- 2.5 The focus of the service has now moved onto bringing the counter fraud operational arrangements of the two Councils together, which includes:
- formalising working arrangements with internal departments;
 - exploring the options available to introduce a more up to date IT system to support the combined team; and
 - updating publicity material and combining reporting lines.
- 2.6 This partnership approach, led by the CFID will ensure that the new powers provided to Local Authorities under the Prevention of Social Housing Fraud Act 2013 can be accessed by registered providers offering social housing as a pre-funded intelligence bureau service.
- 2.7 The expectation is that this project will help the Council:
- support more vulnerable families by providing accommodation to those on the waiting list as properties are recovered as a result of investigations undertaken; and
 - by recovering cash funds from people, where this line of action is appropriate, who have obtained property that they are not entitled to or are using it in a manner that contravenes their tenancy agreement.
- 2.8 The CFID project will also target heightened fraud risk to the National Non-Domestic Rates (“NNDR”) system installing methodologies to prevent and detect fraud in this arena, particularly organisations using NNDR to launder criminal proceeds.
- 2.9 The intention is now to extend this work with the grant funding monies received from government.

Future Developments

- 2.10 The national local government counter fraud and investigation landscape is changing with:
- the demise of the Audit Commission in March 2015 and the transfer of its National Fraud Initiative to the Cabinet Office in due course;
 - the creation of CIPFA's new Counter Fraud Centre, who will inherit the Audit Commission's staff and functions that support the production of Protecting the Public Purse; and
 - the Department for Work and Pensions creating the Single Fraud Investigation Service.
- 2.11 The **CIPFA Counter Fraud Centre** has been established to work with the Department for Communities and Local Government (DCLG), the National Crime Agency (NCA), the Cabinet Office and other agencies, to be a 'one stop shop' for fighting fraud. It is developing new tools, good practice and guidance as well as a CIPFA Accredited Counter Fraud Specialist qualification. It has also taken over responsibly for and is in the process of updating Fighting Fraud Locally, the Local Governance Strategy.
- 2.12 Attached as information items, are two recent national publications:
- Code of Practice on Managing the Risk of Fraud and Corruption by CIPFA's Counter Fraud Centre; and
 - Protecting the Public Purse 2014, Fighting Fraud Against Local Government by the Audit Commission.
- 2.13 Both reports set out good practice that should be applied by local authorities. The Council's Anti Fraud & Corruption Policy's compliance with these good practice requirements will be confirmed when it is refreshed in the coming months to reflect the new working arrangements.
- 2.14 In October 2010, the Department for Work and Pensions (DWP) and HM Revenue and Customs (HMRC) published *The Fraud & Error Strategy: Tackling fraud and error in the benefit and tax credits systems*.
- 2.15 The strategy recommended that all welfare benefit fraud be investigated by one organisation taking all existing responsibility from the DWP, HMRC and Local Authorities. The new service named the **Single Fraud Investigation Service** (SFIS) is to be:
- located in the DWP as a newly formed department; and
 - staffed by those employees from the DWP, HMRC and Local Authorities, who those organisations determine are 'in scope' to transfer over.
- 2.16 So from the 1st November 2015, CFID will no longer investigate housing benefit fraud. Any existing investigations will simply be handed over to SFIS to continue. As has been pointed out during the consultation process, establishing the SFIS goes against the principles set out in Fighting Fraud Locally, the government's overall strategy to tackle fraud, error and debt in

local government. The indications are that many authorities will lose the majority if not all of their fraud investigation teams to SFIS leaving limited capacity to deal with any other fraud risks.

- 2.17 At present, no Council staff have been formally identified as "in scope" and therefore at risk of transfer to the SFIS. The strategy over the coming months is to re-profile the teams' work into other areas, primarily via the projects outlined above. However this situation will continue to be monitored until a final decision is required during the summer 2015.

Fighting Fraud Locally

- 2.18 Currently the key document that sets out how local authorities should operate to mitigate the risk of fraud and corruption is **Fighting Fraud Locally, the Local Government Fraud Strategy**. The Council has a good level of compliance with them although some documents need updating now to reflect:

- the joint operating arrangements now being implemented; and
- national guidance issued recently or due shortly.

- 2.19 Overall, the main areas of work for the Council are:

- refreshing the Anti Fraud & Corruption, Whistleblowing and Money Laundering Policies / Strategies in conjunction with other services;
- informing the staff Code of Conduct and systems that evidence compliance in certain areas (e.g. arrangements for declaring hospitality and gifts and interests); and
- reviewing Privacy Notices (Fair Processing Notices) to enable more effective, appropriate, sharing of data.

Corporate Counter Fraud Plan

- 2.20 **Appendix 2** summarises:

- outstanding actions identified from the Fighting Fraud Locally assessment; and
- the proactive work delivered so far this year and activities planned.

Bribery Act 2010 and Money Laundering

- 2.21 The Bribery Act 2010 created specific offences under Sections 1 and 2 of 'bribing' and being 'bribed' which apply to both private and public organisations where "*a person accepts a payment in return for manipulating the process or outcome of a public procurement in favour of a particular bidder*".
- 2.22 Section 7 of the Bribery Act created an offence "*of a commercial organisation failing to prevent bribery*". Although the offence by definition applies to commercial organisations, guidance states that it covers organisations that are incorporated (by whatever means) or partnerships. It does not matter if

the organisation pursues primarily charitable, educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made. It is clear that some public sector organisations will fall within the definition set out in Section 7 of the Act e.g. a company established by a local authority under the Local Government Act 2003.

- 2.23 The key defence, should a bribery allegation arise, is that adequate procedures are in place to prevent this occurring. One aspect of this is to:
- undertake risk assessments that are periodic, informed, documented and includes financial risks but also other risks such as reputational damage; and
- 2.24 In February 2015 new CIPFA guidance was issued which outlines:
- continuing obligations on public authorities in relation to money laundering; and
 - the interpretation of the provisions of the Money Laundering Regulations 2007 and the United Kingdom's response to the European Union Third Money Laundering Directive.
- 2.25 The Council is now formally assessing its risks in both these areas as, it is important that the:
- impact of the new money laundering guidance on both the Policy and the risk assessment is considered; and
 - the service risk assessments are updated in both areas.
- 2.26 Therefore all Senior Managers will be asked to complete a short survey in due course to assess whether their service activities have characteristics that might make them more of a potential target for bribery or money laundering. The purpose of this assessment is to confirm whether the Council has sufficient arrangements in place to counter these potential risks.
- 2.27 It will also be an opportunity to remind staff that breaches of the Bribery Act 2010 are punishable by unlimited fines and / or up to 10 years' imprisonment in the case of individuals. Further action can also be brought against "senior officers" of an organisation where it can be demonstrated that the offence took place with their consent or connivance.

3. Issues, Options and Analysis of Options

- 3.1 The joint, government funded service will ensure that the Council meets its obligations for protecting the public funds it administers. The corporate counter fraud plan also ensures that the Council's response to fraud risk is current and valid based on national threats from economic crime.
- 3.2 The Council is responsible for ensuring that it complies with the government's Fighting Fraud Locally Strategy. The proposed corporate plan ensures that the council has in place a strategy to test its counter fraud strategy.

4. Reasons for Recommendation

4.1 The report is for information only with no recommendations attached.

5. Consultation (including Overview and Scrutiny, if applicable)

5.1 Not applicable.

6. Impact on corporate policies, priorities, performance and community impact

6.1 Work undertaken to reduce fraud and enhance the Council's anti fraud and corruption culture contributes to the delivery of all its aims and priorities. This report is consistent with the Council's corporate priorities, particularly "build pride, responsibility and respect."

7. Implications

7.1 Financial

Implications verified by: **Sean Clark**
Head of Corporate Finance

Proactive fraud and corruption work acts as a deterrent against financial impropriety and might identify financial loss and loss of assets. Any financial implications arising from identifying and managing the fraud risk will be considered through the normal financial management processes. Proactively managing fraud risk can result in reduced costs to the Council by reducing exposure to potential loss and insurance claims.

7.2 Legal

Implications verified by: **David Lawson**
Deputy Head of Legal Services

The Accounts and Audit (England) Regulations 2011 section 4 (2) require that:

The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions and which includes the arrangements for the management of risk.

This proactive and investigative work undertaken by the team as well as the regular monitoring of compliance with the requirements of Fighting Fraud Locally discharges this duty.

7.3 **Diversity and Equality**

Implications verified by: **Rebecca Price,**
Community Development Officer.

There are no implications within this report.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

N/A.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Fighting Fraud Locally, The Local Government Fraud Strategy
- CIPFA Publication: Managing the Risk of Fraud
- Audit Commission Publication: Protecting the Public Purse: Local Government Fighting Fraud.

9. **Appendices to the report**

- Appendix 1: Counter Fraud Fund Project Plan
- Appendix 2: Counter Fraud & Investigation Directorate Thurrock Council Work Programme 2014/15

For Information

- Information 1: Protecting the Public Purse 2014
- Information 2: Managing the risk of Fraud and Corruption

Report Author:

David Kleinberg

Group Counter Fraud & Investigation Manager

Counter Fraud & Investigation