



Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE – 29 OCTOBER 2020
Report Number	AGENDA ITEM 10
Subject	COUNTER FRAUD UNIT REPORT
Wards affected	All indirectly
Accountable member	<p>Cllr Mike Every</p> <p>Deputy Leader and Cabinet Member for Finance</p> <p>Tel: 07850 373022 Email: Mike.Every@cotswold.gov.uk</p>
Accountable officer	<p>Emma Cathcart, Counter Fraud Unit Manager</p> <p>Tel: 01285 623356 Email: Emma.Cathcart@cotswold.gov.uk</p>
Summary/Purpose	<p>To provide the Audit Committee with assurance over the counter fraud activities of the Council. The Counter Fraud Unit will continue to provide the Audit Committee with direct updates biannually.</p> <p>Work plans are presented to the Audit 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 to Audit Committee in relation to the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA), the Council's existing authorisation arrangements and the outcome of the recent inspection by the Investigatory Powers Commissioner's Office (IPCO).</p>
Annexes	<p>Annex A – Work Plan 2019/2020</p> <p>Annex B – Work Plan 2020/2021</p>
Recommendation/s	<i>a) That the Audit Committee notes the report and the work plan.</i>
Corporate priorities	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 and community plans.
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Work plans are agreed and reviewed regularly with the Chief Finance Officer.

	Any Policies drafted or revised by the Counter Fraud Unit have been reviewed by the Legal Team and have been issued to the Governance Group and Joint Management Team for comment.
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1. BACKGROUND

- 1.1. The Audit 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.
- 1.2. In administering its responsibilities, this 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 Councillor.
- 1.3. Work plans have been agreed with the Chief Finance Officer and the Council's Management and work is underway. The Audit Committee, as the body charged with governance, is presented with a copy of the work plan for information.
- 1.4. Attached at Annex A is a copy of the work plan for 2019/2020.
- 1.5. Attached at Annex B is a copy of the work plan for 2020/2021.

2. MAIN POINTS

2.1. Counter Fraud Unit Update.

- 2.2. The Counter Fraud Unit (CFU) has been 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 Small Business Grant Funding, Retail, Leisure & Hospitality Grant Funding and Discretionary Grant payments. To date the CFU has received 33 referrals from the Revenues Team to review resulting in the following:
 - 13 cases that were confirmed as eligible and the grant was paid. 3 cases that were referred back for a service area decision.
 - 5 cases of loss prevention, in that the grant monies were not paid, totalling £110,000 (2 classed as fraudulent attempts and 3 classed as not eligible).
 - 15 cases of post payment recovery totalling £240,000 (2 classed as fraud and 13 classed as not eligible or error) have been identified and invoices have been raised. Of this £240,000, £140,000 has been repaid.
 - Further post payment checks are underway. All payment data is being sent for analysis to CIFAS (a fraud prevention service representing organisations from across the public, private and voluntary sectors) for matching against the National Fraud Database and to Spotlight (Cabinet Office) for wider checks relating to individual company records. A comprehensive template has been provided to ensure a consistent approach to fraud risk assessment in this area. The template contains details of how these risks are mitigated and managed.
- 2.3. The CFU developed a medium term enforcement proposal to manage the current situation whilst we cannot undertake interviews under caution in person. This proposal follows guidance from the Crown Prosecution Service, and others, which recommends that written statements under caution are obtained so that enforcement activity may continue.
- 2.4. The CFU have procured a case management system and as such we are now able to implement a new referral process which means that referrals will automatically be uploaded into the system via a secure link for all 5 partner Councils, Publica and the 10 third party clients.
- 2.5. 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.

- 2.6. The team reviewed 1,066 matches in 2019/2020. Of these matches 29 Council Tax accounts have been amended generating £14,370 increased Council Tax revenue and 9 Civil Penalties, totalling £630, have been applied. This year so far, 876 matches have been reviewed and 176 recommendations have been made to the Revenues Team for amendments to Council Tax accounts.
- 2.7. A full review of the Housing List has been carried out. This included verification of applications within Emergency Band (75 applications), Gold Band (68 applications) and Silver Band (329 applications). 180 anomalies were referred back to the Housing Team recommending removal or re-banding, results are pending.
- 2.8. Whilst undertaking the review of the Housing List, the CFU also processed the related National Fraud Initiative matches (75 matches) and referred 33 anomalies, results are pending.
- 2.9. 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.
- 2.10. In addition to the work carried under the annual work plans attached at Annex A and Annex B, as a dedicated investigatory support service, the CFU 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.
- 2.11. Summary of 2019/20 investigation and enforcement work:
 - The team received 26 referrals from across the Council and closed 18 cases.
 - The team undertakes disciplinary investigations for Publica across the partnership. 6 cases were referred and 4 cases were closed. The closed cases resulted in 3 disciplinary hearings; 2 final written warnings were issued and a member of staff was dismissed for gross misconduct. The other case resulted in management action only. The other 2 cases remained open at the start of 2019/2020.
 - The team supports the Planning, Heritage and Conservation Teams. The work undertaken by Council's Conservation Officer and the Counter Fraud Unit resulted in legal services being able to successfully prosecute a guilty plea under the Planning (Listed Buildings and Conservation Areas) Act 1990 for unlawful works to a II* listed building. The defendant received a fine of £20,000 and was ordered to pay £5,651 towards the Council's costs.
 - The team supports the Parking Services Team. The work undertaken by the Council's Projects and Contracts Officer and the Counter Fraud Unit resulted in legal services being able to successfully prosecute a guilty plea under the Fraud Act 2006 for making false representations. The defendant received a 2 x 24 week

custodial sentence suspended for 2 years, fined £200 and ordered to pay costs of £1,900.

- 2.12. As at the beginning of the year, the CFU had 15 open cases. During Quarters 1 and 2 the team have received 8 referrals and closed 7 cases. There are currently 3 cases listed in the Magistrates Court for consideration – 2 relate to Licensing offences and 1 is a Listed Building matter.
- 2.13. **Regulation of Investigatory Powers Act 2000 / Investigatory Powers Act 2016 Policies**
- 2.14. 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.
- 2.15. The Policies were reviewed and presented to the Audit Committee in November 2019; these were adopted by Cabinet in December 2019.
- 2.16. 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 Interim Chief Executive, Christine Gore and the Authorising Officers are the Chief Finance Officer, Jenny Poole and the Interim Group Manager Legal Services and Monitoring Officer, Patrick Arran.
- 2.17. 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 Unit Manager and the Deputy Counter Fraud Unit Manager.
- 2.18. There have been no RIPA applications and three Non-RIPA applications (one was refused) during 2019/2020. There was one application for communications data.
- 2.19. 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.
- 2.20. The recent inspection was completed remotely and the report confirms a high level of compliance by the Council. The recommendations were as follows:
- That the Authorising Officers and Senior Responsible Officer will receive refresher training at the earliest opportunity and any enforcement officers by the end of 2021.
 - That the drafted Social Media Policy be approved and adhered to. This is currently in the consultation phase and will be presented to the Audit Committee in due course.
 - That the Policies and the Counter Fraud Unit Data Retention Procedure be updated to reflect the minimum retention periods for material acquired through covert activity.

3. FINANCIAL IMPLICATIONS

- 3.1. The report details financial savings generated by the Counter Fraud 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 Council is required to ensure that it complies with the Regulation of Investigatory Powers Act 'RIPA' 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 authorised by the appropriate Officer and recorded in the Central Register.
- 4.3. The Council has a statutory obligation for enforcing a wide range of legislation, where it is necessary and proportionate to do so. Human rights implications are a consideration of this type of activity and this is included within the Policies.

5. RISK ASSESSMENT

- 5.1. The Council is required to proactively tackle fraudulent activity in relation to the abuse of public funds. The Counter Fraud Unit 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.

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.
- 6.2. The application of the RIPA and IPA 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.

7. ALTERNATIVE OPTIONS

- 7.1. The Council is the lead authority for the Gloucestershire Counter Fraud Unit. This Unit is working with all of the 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.