



**COTSWOLD**  
DISTRICT COUNCIL

## **COTSWOLD DISTRICT COUNCIL**

Name and date of Committee	<b>AUDIT COMMITTEE – 29 APRIL 2021</b>
Report Number	<b>AGENDA ITEM 10</b>
Subject	<b>COUNTER FRAUD UNIT REPORT AND PROCEEDS OF CRIME AND MONEY LAUNDERING POLICY</b>
Wards affected	All indirectly
Accountable member	Cllr Mike Evemy Deputy Leader and Cabinet Member for Finance Tel: 07850 373022 Email: <a href="mailto:Mike.Evemy@cotswold.gov.uk">Mike.Evemy@cotswold.gov.uk</a>
Accountable officer	Emma Cathcart, Counter Fraud Unit Manager Tel: 01285 623356 Email: <a href="mailto:Emma.Cathcart@cotswold.gov.uk">Emma.Cathcart@cotswold.gov.uk</a>
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>The 2020/21 work plan is presented, with progress and results for consideration and comment.</p> <p>The report outlines 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> <p>The report also provides the Audit Committee with an updated Money Laundering and Proceeds of Crime Policy, which sets out the Council's legislative obligations, for approval and adoption.</p>
Annexes	Annex A – Work Plan 2020/2021 Annex B – Money Laundering and Proceeds of Crime Policy
Recommendation/s	<p>a) <i>That the Audit Committee notes the report and the work plan at Annex A.</i></p> <p>b) <i>That the Audit Committee approves and adopts the Proceeds of Crime and Money Laundering Policy attached at Annex B.</i></p> <p>c) <i>That the Audit Committee Authorises the Deputy Chief Executive (Chief Finance Officer) to approve future minor amendments to the Policy in consultation with Finance, Legal and the Counter Fraud Unit.</i></p>
Corporate priorities	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.



	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	<p>Work plans are agreed and reviewed regularly with the Deputy Chief Executive.</p> <p>Any Policies drafted or revised by the CFU have been reviewed by the Legal Team and have been issued to the relevant Senior Officers, Management and Governance Officers for comment.</p>

## **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. Work plans have been agreed with the Deputy Chief Executive and the Council's Management. The Audit Committee, as the body charged with governance in this area, is presented with a copy of the work plan for information.
- 1.3. Attached at Annex A 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 Covid-19 pandemic by providing advice relating to fraud risk and abuse, most significantly in relation to the Business Grant Schemes. The CFU have assisted with the application and verification processes of all schemes and to date, the team has received 59 referrals to review resulting in the following:
  - 20 cases that were confirmed as eligible and the grant was paid.
  - 7 cases of loss prevention, in that the grant monies were not paid, totalling £136,334 (2 classed as fraudulent attempts).
  - 27 cases of post payment recovery totalling £374,319 (4 classed as fraud) have been identified and invoices have been raised. Of this £374,319, £323,076 has been repaid.
  - 2 cases that are still under review and 3 cases have been referred back to the team with recommendations for service area decisions.
  - The CFU are working with SWAP (Internal Audit) in relation to post payment activities for each scheme and have responsibility for the Fraud Risk Assessment returns to BEIS. A comprehensive template has been provided to ensure a consistent approach to fraud risk assessment in this area and requires details relating to how these are mitigated and managed.
- 2.3. 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.
- 2.4. Matches are awaited via the Cabinet Office's National Fraud Initiative which has collated and compared business grant data nationwide. This is in addition to the matches relating to Council Tax and the Council Tax Reduction Scheme which the Council receive, and the CFU review, each year. The team reviewed 876 matches. Of these matches 37 Council Tax accounts have been amended generating £19,722 increased Council Tax revenue and 11 Civil Penalties, totalling £770, have been applied.
- 2.5. A number of cases involving serious offences against animals continues to be submitted from the RSPCA's Inspectorate and this is expected to increase as the financial and psychological consequences of the pandemic continue to impact on people's ability to look after their animals. The CFU is actively collaborating with the RSPCA proposing better working relationships with the Partner Councils, to include new data sharing agreements, as the number of referrals increase.

- 2.6. In addition to the work carried under the annual work plan attached at Annex A, 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.
- 2.7. Below is a summary of 2020/2021 investigation and enforcement work:
- The team received 15 referrals from across the Council and closed 13 cases.
  - The team undertakes disciplinary investigations for Publica across the partnership. 2 cases were referred and 3 cases were closed. The closed cases resulted in 2 resignations; 1 prior to a disciplinary hearing and 1 during the investigation. The other case resulted in management action only.
  - A case of Housing Application Fraud was investigated which resulted in the offer of a property being withdrawn. As a rough guide, the Cabinet Office estimated the following savings or loss avoidance as £93,000 per property recovered based on average four year fraudulent tenancy – this includes temporary accommodation for genuine applicants, legal costs to recover the property, re-let cost and rent foregone during the void period between tenancies.
  - There are currently 4 cases listed in the Magistrates Court for consideration – 1 is listed for first hearing and relates to the unlawful works to trees protected by a Tree Preservation Order. 2 cases are listed for trial following not guilty pleas and relate to Licensing offences. The final case is listed for sentencing following a guilty plea and relates to unauthorised works to a Listed Building. There is a case listed in the Crown Court following a not guilty plea relating to Fraud offences.
- 2.8. **Regulation of Investigatory Powers Act 2000 / Investigatory Powers Act 2016 Policies**
- 2.9. 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.
- 2.10. The Policies were reviewed and presented to the Audit Committee in November 2019; these were adopted by Cabinet in December 2019.
- 2.11. 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, Robert Weaver and the Authorising Officers are the Deputy Chief Executive, Jenny Poole and the Interim Group Manager Legal Services and Monitoring Officer, Patrick Arran.
- 2.12. 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.
- 2.13. There have been no RIPA applications made by the Council during 2020/2021 and no applications for communications data. There have been no Non-RIPA applications made during 2020/2021.
- 2.14. 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.

- 2.15. The Policy relating to the use of the internet and social media in enforcement and investigations has been reviewed by Governance Group and is to be presented to Corporate Management for final approval. It will then be presented to Audit Committee.
- 2.16. **Money Laundering and Proceeds of Crime Policy**
- 2.17. The Policy, at Annex B, defines a best practice approach to dealing with money laundering obligations and suspicious activity reports.
- 2.18. Proceeds of Crime and Money Laundering legislation govern the responsibilities of individuals and organisations.
- 2.19. The Policy and the related Officers Procedural Guidance addresses the way in which the Council, its employees and its Members can formally discharge these obligations.
- 2.20. The nominated Money Laundering Reporting Officer is the Officer appointed under section 151 of the Local Government Act 1972, in the case of the Council, this is the Deputy Chief Executive.

### **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 any enforcement Policies.
- 4.4. The Proceeds of Crime and Money Laundering Policy sets out the legislative obligations that the Council must adhere to. Whilst the risk to the Council of contravening the law is low, it is important that all employees are familiar with their duties and responsibilities.

### **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.

- 5.5. The Proceeds of Crime and Money Laundering Policy mitigates the risk that the Council will fail to fulfil its legal obligations.

**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.