

# TONBRIDGE & MALLING BOROUGH COUNCIL

## AUDIT COMMITTEE

23 January 2012

### Report of the Director of Finance

#### Part 1- Public

#### Delegated

### **1 PROTECTING THE PUBLIC PURSE 2011**

#### **Summary**

**This report informs Members of the content of the Protecting the Public Purse 2011 document published by the Audit Commission. It asks Members to consider the responses to the checklist within the report and to agree them.**

#### **1.1 Introduction**

- 1.1.1 The Audit Commission survey and report on the impact of fraud on an annual basis in the publication "Protecting the Public Purse". The latest report has been issued and is available on line at : - <http://www.audit-commission.gov.uk/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/20111110-ppp-2011.pdf>
- 1.1.2 The report outlines an estimate of the cost of fraud to Councils as being in excess of £2 billion per annum. The survey also showed that the value of fraud against councils had increased by 37%.
- 1.1.3 The report also makes ten recommendations for local authorities to adopt in order to prevent and detect fraud. These are dealt with separately in the following paragraphs.

#### **1.2 Councils maintain the ability to investigate fraud**

- 1.2.1 With the introduction of the Universal Credit there will also be a "Single Fraud Investigation Service" (SFIS) set up to investigate all benefit fraud that will result in the transfer of local government investigators to the DWP.
- 1.2.2 The concern is that local authorities will lose the skills of specialist investigators. There are other initiatives in progress such as the National Fraud Authority (NFA) for a number of local authority investigators to remain in local authorities to investigate all fraud other than benefit fraud.

- 1.2.3 The Government has recently announced that local authority investigators will remain employed by local authorities until 2015 but will operate in accordance with SFIS policies and procedures until a final decision on potential transfer of staff takes place.
- 1.2.4 The NFA initiative is in the early stages of development but they are lobbying Government for funding to enable this to take place.

### **1.3 Using Data**

- 1.3.1 Councils should improve the use of data, information and intelligence to focus on counter fraud work. It is recognised that the councils have a large number of databases that they should use more effectively in order to detect fraud.
- 1.3.2 This Council already participates in national data matching exercises but the Audit Commission is encouraging local authorities to use other data sets that are available to identify potential fraud.
- 1.3.3 A recent example of this technique was a London borough where they used parking ticket information and library tickets to prove that a Single Person Discount (SPD) for council tax was being fraudulently claimed. A SPD was cancelled back several years and the offender was required to repay several thousand pounds as well as being prosecuted.

### **1.4 Review their counter-fraud arrangements**

- 1.4.1 This review to be carried out in the context of the National Fraud Authority (NFA) strategy for local government, Fighting Fraud Locally, to be published shortly.
- 1.4.2 This strategy is likely to be issued in early January but the key points to come out of it are summed up in three key points.
- 1.4.3 Firstly, councils must **A**cknowledge that fraud is taking place. This relates to the setting up of Anti-Fraud strategies to ensure that all stakeholders are aware that that an organisation is aware that fraud takes place and sends out the message that it will not be tolerated.
- 1.4.4 The second point is acting to **P**revent fraud from taking place. The NFA want councils to invest in setting up more stringent checks to prevent fraud from entering the system in the first place. An example of this is introducing stringent recruitment checks to ensure that potential employees have told the truth in applications.
- 1.4.5 The final point is **E**nforce and this advocates the introduction of a zero tolerance attitude towards fraud with crimes such as fraudulent SPD being claimed resulting in prosecution. It also identifies that greater emphasis should be paid to recovery.
- 1.4.6 This strategy is expected to be published in January 2012 following final Government approval. The full contents of the strategy will be reported to

Members of this Committee when it has been published. However, the key points above are unlikely to be changed.

## **1.5 Working with others to deter tenancy fraudsters**

- 1.5.1 Councils should work with other registered social housing providers to improve the use of civil and criminal action to deter tenancy fraudsters.
- 1.5.2 There are two areas of tenancy fraud that are generally identified as separate concerns. The first area is housing applications whereby fraudulent information may be submitted in order to gain an advantage. The Benefit Investigation have worked with Housing to raise fraud awareness and there have already been some referrals made for investigation, one of which resulted in an application being withdrawn and the offender being given a Caution.
- 1.5.3 The other area of particular concern is tenancy fraud once a property has been allocated. Targeted work in London authorities has resulted in a number of properties being recovered and prosecutions for sub-letting taking place. This has resulted in savings for authorities in temporary accommodation payments as well as court recovery of illegal profits from offenders. It is recognised that Social landlords do not have the same drivers as a housing authority. However, the Government are expecting social landlords to tackle this problem.
- 1.5.4 It is not clear how any investigation work in liaison with social landlords could be funded but the Government are being lobbied to address this dilemma. A meeting between the main social landlord, Housing and Benefit Investigation has been arranged to seek initial opinions of how we could work together to tackle this problem.

## **1.6 Use the Audit Commission's council (SPD) fraud predictor**

- 1.6.1 The Audit Commission have produced a toolkit designed to use national and local statistics to predict the potential level of council tax single person discount fraud locally. This tool kit is available on line using the following link: -

<http://spd.audit->

[commission.gov.uk/RenderReport.aspx?Gkey=282VqIaaVSLe4eBvMS4LpFtqpMctQPmmKYFIcrQmNnv9s0tLW4rdqg%3d%3d](http://commission.gov.uk/RenderReport.aspx?Gkey=282VqIaaVSLe4eBvMS4LpFtqpMctQPmmKYFIcrQmNnv9s0tLW4rdqg%3d%3d)

- 1.6.2 The toolkit carries out a comparison between authorities using different criteria to identify the level of single person discounts within an area. The theory is that the higher the level of single person discounts when compared to similar authorities then the likelihood is that a greater number of fraudulent claims will exist.
- 1.6.3 The site was accessed and graphs in relation to Tonbridge & Malling were extracted. The first chart shows SPD as a percentage of chargeable dwellings compared to our geographical neighbours. **[Annex 1]** As the chart shows this Council has the lowest percentage.

- 1.6.4 The second chart shows a comparison with all other single tier and district Councils. **[Annex 2]**
- 1.6.5 The tool also makes a forecast on potential added revenue that could be achieved by the Council assuming that 4% of SPD claims are fraudulent of £36,323.
- 1.6.6 Although the level of SPD cases is low there may be several reasons for this. There has been a difference found between benefit cases where there is only one adult in the property and where there is not a corresponding SPD claim. This was identified by the District Auditor and is being addressed. It is anticipated that this will increase the number of total SPD cases.
- 1.6.7 The Council takes part in the National Fraud Initiative (NFI) data matching exercise that takes place every two years and the last exercise had a set of cases where there was the potential that SPD was incorrectly claimed. These cases were investigated and there were a number of cases where SPD was removed.
- 1.6.8 Following the NFI exercise the wording was changed on the SPD claim form to state that supplying false information is an offence under the Fraud Act 2006 and that the Council will consider prosecution if a claim is false. This may have acted as a deterrent to false claims.
- 1.6.9 The NFI exercise will include a SPD data match in the next tranche of matches early in 2012.

## **1.7 NFA – Tackling Housing tenancy and Council Tax Fraud**

- 1.7.1 It is recommended that Council's review their performance against the NFA's good practice on tackling housing tenancy fraud and council tax fraud. The key recommendations from this report are set out below: -
- All landlords should ascertain the level of unlawful occupation in their stock
  - More Local Authorities should provide a fraud investigatory service to housing associations in return for nomination rights to homes recovered
  - Registered Providers of social housing should have robust internal audit processes in place to detect possible fraudulent or corrupt actions by staff
  - Local Authorities should consider photographing tenants at allocation and existing tenants at tenancy audits
  - Local Authorities should consider the balance of the resources they allocate to housing benefit and housing tenancy fraud
  - A consistent best practice tenancy audit checklist and training needs to be devised to show how these can be carried out effectively
  - The Government should consider further incentivising Local Authorities and Registered Providers to investigate and recover unlawfully sublet properties
  - Registered Providers and Councils should commit to joint working and there should be political and managerial commitment to the recovery of unlawfully sub-let properties
  - Housing Tenancy fraud is not restricted to London and work needs to be done to promote investigations outside London

- 1.7.2 A number of these recommendations refer to authorities where they have retained housing stock. In order to progress housing fraud between local authorities and social landlords there needs to be some method of financing any investigation. The suggestion of nomination rights for recovered properties is based upon an assumed saving of £18,000 on temporary accommodation payments where a property is recovered and nomination rights are granted to the Council. The Government did provide a one-off £10,000 grant for the purpose of tackling housing fraud some of which has been used to strengthen application vetting but there is the possibility that some of this could be used for pilot work to identify potential housing fraud.
- 1.7.3 There are currently discussions between Housing, the Chief Internal Auditor and the Benefit Investigation Manager on how tenancy fraud could be tackled.

## **1.8 NFI Council Tax Fraud**

- 1.8.1 The Council should ensure the National Fraud Initiative (NFI) data matches are followed up effectively, including those targeting council tax discount abuse (next data release due in February 2012).
- 1.8.2 The Council has always participated in the NFI exercises and traditionally there has been very little fraud arising from the exercise. In the last exercise of 2008 SPD matching was introduced for the first time and this resulted in the cancellation of a number of SPD cases. At the time the wording on the application form was not considered strong enough for prosecutions to take place. Since that exercise the wording on the application forms has been changed and it will be possible to consider prosecution for future fraudulent claims.

## **1.9 Personal budgets and whistleblowing arrangements**

- 1.9.1 This recommendation was to review personal budgets arrangements to ensure safeguarding and whistleblowing arrangements are proportionate to the fraud risk.
- 1.9.2 This recommendation does not apply to this Council as it is aimed at the situation where customers are given personal budgets e.g. Social Services.

## **1.10 Follow good practice and the success of others**

- 1.10.1 This recommendation refers to the large number of fraud related initiatives that are currently being released. The Audit Commission, CIPFA and the NFA have all issued publications recently focused upon fraud prevention and detection.
- 1.10.2 An emerging pattern from all areas is that Local Government has successfully tackled benefit fraud and it now needs to utilise those skills to tackle other fraud. The effect of the recession is that it is likely that incidences of fraud internally and externally are on the increase. The NFA undertake an annual study of fraud

levels and the 2011 indicator estimated that Local Government loses £2.1 billion annually to fraud.

## **1.11 Checklist**

- 1.11.1 The final recommendation from the document is for those charged with governance to use the checklist provided in the document. A copy of the checklist is attached as completed by the Chief Internal Auditor but Members of the Audit Committee are invited to consider the responses given at **[Annex 3]**
- 1.11.2 Members will note that some boxes have not been ticked. Under point 2 the Fighting Fraud Locally publication has not yet been issued so we cannot state that we comply with it.
- 1.11.3 Points 21 and 22 have an error that prevents ticking a yes in both boxes, however, they should both be marked positively.
- 1.11.4 Point 23 relates to a County function not District so is left blank.
- 1.11.5 Point 24 also relates to personal budgets as part of the answer so it is left blank. However, the Confidential Reporting Code of the Council is up to date and available on our websites.
- 1.11.6 Point 25 relates to the control of discounts and allowances given to Council Tax payers. There has been a problem identified between Benefits and Revenues where we have commissioned work to identify a number of cases where SPD is applicable. There has also been a flag introduced to ensure the discounts are applied. In addition it is planned to include a review of discounts and allowances in the next audit plan. The Council is also providing data for the NFI data matching exercise on Single Person Discounts to take place.

## **1.12 Summary**

- 1.12.1 The report has placed an expectation on local authorities to place greater emphasis on fraud prevention and detection. This view will be supported by the NFA publication "Fighting Fraud Locally" which will also focus on how local authorities will tackle these issues.
- 1.12.2 This authority already has an Anti-Fraud and Corruption Policy in place that supports a zero tolerance to fraud.
- 1.12.3 The DWP have announced that Benefit Investigators will remain with local authorities working under their guidelines for benefit fraud until April 2015. They do recognise that these investigators can be used as now by the local authorities to progress fraud investigation beyond benefit fraud.
- 1.12.4 The Benefit Investigation staff have the skills required to pursue cases to prosecution if necessary so it is important that the Council uses the interim period up to April 2015 to determine what use can be made of the resources. CIPFA

guidance has also been issued recently where it is suggested that Internal Audit should be placing more resources on fraud prevention and detection. This will be addressed in the audit plan for 2012/13.

### **1.13 Legal Implications**

- 1.13.1 There may be an impact on the Legal Service team if more cases of fraud are prosecuted. However, with the transfer of benefit investigation to the DWP there will probably be some spare capacity to do so.
- 1.13.2 Any investigation being undertaken with prosecution as a possible outcome will need to follow the relevant legal procedure using the skills of the Benefit Investigation staff in conjunction with Internal Audit and Personnel.

### **1.14 Financial and Value for Money Considerations**

- 1.14.1 The cost of fraud against fraud prevention is difficult to quantify. A low incidence of fraud can demonstrate that fraud prevention measures are working but could also signify that they are not being found.
- 1.14.2 With all cases of fraud that are discovered and resolved it will be necessary to arrive at a figure illustrating potential cost.

### **1.15 Risk Assessment**

- 1.15.1 With the risk of fraud increasing in times of recession and the expectations of Central Government the Council will suffer reputation risk if it does not take action to address the recommendations of the report.
- 1.15.2 If action is not taken to address fraud then the financial consequences could impact severely on the Council.

### **1.16 Equality Impact Assessment**

- 1.16.1 No issues identified

### **1.17 Policy Considerations**

- 1.17.1 Crime & Disorder Reduction – Information relating to dealing with Fraud.

### **1.18 Recommendation**

- 1.18.1 Members are asked to consider the responses given in the attached checklist to this report and **recommend** agreement with them

Background papers:

contact: David Buckley

Audit Commission – Protecting the Public Purse 2012

Sharon Shelton

Director of Finance

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	No issues identified
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	No issues identified
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*