

# TONBRIDGE & MALLING BOROUGH COUNCIL

## AUDIT COMMITTEE

22 June 2015

### Report of the Director of Finance and Transformation

#### Part 1- Public

#### Matters for Information

#### 1 ANNUAL FRAUD INVESTIGATION REPORT 2014-15

**This report informs Members of the work carried out by the Fraud Investigation Team in the year 2014/15.**

#### 1.1 Introduction

1.1.1 In November 2014, the Audit Commission published its final annual report 'Protecting the Public Purse', which is based on a survey of investigation activity conducted by all local authorities. The report stated that £188 million of fraud was detected by local government during 2013-14. As with the earlier 2013 report, it highlighted the areas of non-benefit fraud that were affecting local authorities. Areas of risk relevant to the Borough Council include:

- Council tax discount fraud (estimated 4-6% of all discounts)
- Business rates (NNDR) fraud (percentage estimates unknown)
- Internal fraud (estimated 1% of all fraud cases within local authorities)

1.1.2 Tonbridge & Malling Borough Council is opposed to all forms of fraud and corruption and recognises that such acts can undermine the standards of public service, which it promotes, and have a detrimental effect on the ability of the Council to meet its own objectives. This, in turn, can impact on the service provided to the residents of Tonbridge & Malling.

1.1.3 This report is intended to provide details of the Council's activity in preventing and detecting fraud and corruption in the year 2014-15 and provides details of the performance of the Investigation team in relation to matters that have been investigated. It also provides information about plans for the future work of the Investigation Team to further tackle frauds being committed against the Council.

#### 1.2 Prevention and Detection of Fraud and Corruption

1.2.1 A key element of the Council's arrangements to prevent fraud and corruption activity is the development and maintenance of an anti-fraud culture within the

Council. This culture is developed and nurtured through a number of activities, as set out below.

#### *Corporate Internal Control Arrangements*

- 1.2.2 The Council operates within a framework of policies and procedures intended to direct the activity of the Council and ensure transparency in decision making. Responsible officers are expected to ensure that effective internal control arrangements are incorporated into the design and development of systems and procedures.
- 1.2.3 Assurance on internal control arrangements is primarily provided through the work of internal audit and external audit and assurance statements completed by managers at the end of each financial year.
- 1.2.4 In addition to this, the fraud investigation team provide feedback on any procedural weaknesses identified through the course of any investigations with recommendations for 'fraud proofing' to try and prevent similar occurrences in the future.

#### *Anti-Fraud & Corruption Policies*

- 1.2.5 The Anti-Fraud & Corruption Policy is a public document setting out the Council's stance on fraud and corruption and providing an outline of its arrangements to prevent, detect and investigate fraud and corruption. The Policy underpins the Council's corporate anti-fraud arrangements and supports other corporate documents.
- 1.2.6 The Housing & Council Tax Benefit Anti-Fraud Policy and Council Tax Reduction, Discount and Exemption Anti-Fraud Policy are public documents that set out the Council's approach specifically in relation to those areas of fraud.
- 1.2.7 During 2014-15 the Investigations Manager carried out a review of all anti-fraud policies to ensure that they continue to reflect current legislation, recognise best practice and fully reference the Council's current arrangements in the prevention, detection and investigation of fraud and corruption.

#### *Whistleblowing Policy*

- 1.2.8 The Whistleblowing Policy is intended to be used by Council employees, Members and contractors, consultants or partners working with or for the Council to support the disclosure of concerns and suspicions which cannot be raised through the channels set out in the Council's Anti-Fraud & Corruption Policy.
- 1.2.9 The document was also reviewed during the year. The revised Policy was submitted to Audit Committee in April 2015 and now awaits final approval from the General Purposes Committee.

### *Induction*

- 1.2.10 The Council has arrangements in place for inducting new members of staff. This includes providing information to employees on the Code of Conduct, the Council's anti-fraud & corruption arrangements and whistle blowing.

### *Website*

- 1.2.11 The various anti-fraud policies are available on the Council's website, together with information on the types of fraud and how to report concerns.

### *Publicity of Successful Prosecutions*

- 1.2.12 The Council is committed to publicising where it has been able to successfully pursue proven cases of fraud or corruption through to a successful prosecution. During the year the investigation team have issued press release information to the communications team in respect of 19 successful prosecutions. The publicity of such action provides public assurance that the Council does and will deal with such cases effectively, acting as both a deterrent to those contemplating fraudulent activity and encouraging those with information to come forward and report this to the Council.

### *National Fraud Initiative – Data Matching*

- 1.2.13 The Council proactively takes part in the National Fraud Initiative (NFI). This is a nationwide data matching exercise, comparing computer records held by the Council against other computer records held by councils and other bodies, allowing potentially fraudulent claims and payments to be identified. Where a match is found it does not necessarily indicate fraud in all instances; it does however highlight an inconsistency in the information held which requires further investigation and could be attributed to either fraud or error.
- 1.2.14 The exercise runs bi-annually matching data relating to housing benefit, payroll, creditors, housing (including right-to-buy), insurance claims and taxi licencing information held by the Council. Data matching for council tax single persons discount occurs in alternate years.
- 1.2.15 The matches resulting from the 2013-14 Council Tax exercise were received in March 2014 and a total of 549 matches were received. The Investigation Team were responsible for checking the details received and establishing whether investigation was required.
- 1.2.16 At the end of the year 2014-15 all matches had been checked with 465 closed. Investigations relating to the remaining 84 are ongoing. The completed investigations have led to the removal of SPD's from 163 accounts, 57 of which were awarded a student discount of 25% based on the correct circumstances. These changes created additional liability of £49,579.41. 34 people have been issued with civil penalties of £70 as a result of the data match.

1.2.17 In October 2014 the Council submitted data for the 2014-15 NFI exercise that matches Council data from a number of sources. The results of this exercise were received by the Council in January 2015 and 1428 matches were received relating to benefits, payroll and finance. To date 943 have been checked, of which 914 have been closed with no action required and 30 cases are subject to further investigation. The Investigation Team is assessing the remaining matches to determine whether investigation is required.

### **1.3 Investigating Fraud**

1.3.1 Whilst the Council has put in place a range of internal control arrangements within its systems and processes to detect fraud and corruption activity, the Council recognises that the detection of fraud and corruption is often as a result of the alertness of employees, Members, the general public and other stakeholders.

1.3.2 The Investigations Team is responsible for investigating all allegations of fraud and corruption, whether this is through internal fraud or external stakeholders or customers, as well as assisting with disciplinary investigations as and when required. The team consists of:

- An Investigations Manager (0.5 FTEs) and
- 2 Investigation Officers (1.6 FTEs).

1.3.3 The Investigations Team works closely with a number of external agencies including the Department for Work and Pensions, Border Agency, Kent Police and NHS Fraud to progress investigations.

1.3.4 Since 1 December 2008 the Council has been involved in a fraud management partnership with Gravesham Borough Council. This involves the Investigations Manager from Gravesham jointly managing the Investigation Teams of both Gravesham Borough Council and Tonbridge & Malling Borough Council. The current manager has been in post since August 2013. Although the Partnership arrangement was in place throughout 2014/15, the Council has recently served notice to terminate this arrangement with effect from 19 June 2015.

1.3.5 During 2014-15, the Investigation Team received a total of 720 referrals. Of these referrals, 425 were accepted for investigation. The remaining 295 referrals were either rejected on the basis of insufficient information or because the allegations received were more appropriate for investigation by other departments/agencies, such as the Department for Work and Pensions (DWP).

1.3.6 The following sections detail the work of the Investigation Team in relation to the specific areas of fraud and the results of investigations concluded in 2014-15.

### *Corporate Fraud & Irregularity*

- 1.3.7 To ensure the on-going effective use of the skills and resources available to it, the Council has established a corporate approach to receive, evaluate and co-ordinate the investigation of allegations of fraud, corruption and misconduct where appropriate.
- 1.3.8 During 2014-15 the Investigation Team did not receive any allegations relating to suspected fraudulent activity but did receive two whistleblowing reports about suspected misconduct.
- 1.3.9 The first related to a part time employee who was allegedly arriving at work late but signing in at the time she should have started and had also repeatedly left the office early without authorisation, therefore failing to work her contracted hours. This referral was passed directly to line management for follow up. The subsequent disciplinary enquiry found no evidence of misconduct but procedures were updated as a result of the case.
- 1.3.10 A second whistle blow was reported to Internal Audit relating to a member of staff who had reportedly made inappropriate comments on social media and was passed directly to Personnel Services. It is understood that this matter was concluded with the employee being given a formal warning.

### *Housing Fraud*

- 1.3.11 Housing Fraud has been an emerging area of fraud concern for a number of years. The strain on social housing stock has been well publicised in the media for some time and this has prompted greater public interest and an increase in the number of referrals received in relation to alleged fraud, particularly sub-letting. Historically this has been seen as a problem for London Boroughs and other large City councils but surveys show that it is a national problem affecting all councils.
- 1.3.12 Whilst Tonbridge & Malling does not have its own housing stock, it is responsible for maintaining the housing waiting list and providing temporary accommodation for the homeless. Suspected fraudulent applications are investigated to ensure that only those in genuine need make it onto the housing register and that they are given the correct level of priority.
- 1.3.13 The Investigation Team received eight referrals linked to housing fraud during 2014-15. Four of these cases have been concluded with no evidence of fraud but investigations remain ongoing in relation to the other four with one pending a court appearance for false statements.
- 1.3.14 The Investigation Team has also carried out pro-active work, visiting bed & breakfast accommodation to ensure that those claiming to be in need of temporary housing are genuinely residing in the accommodation provided and have not made false claims.

### *Council Tax Fraud*

- 1.3.15 Council Tax is another area where the Council is exposed to loss. This is largely where residents obtain illegitimate discounts such as the single person discount (SPD) that provides council tax payers with a 25% reduction in their council tax liability. Estimates from the Audit Commission in their 2014 'Protecting the Public Purse' report suggested that 4%-6% of single person discounts are fraudulent.
- 1.3.16 The abolition of council tax benefit and introduction of localised Council Tax Reduction (CTR) Schemes now means that there is a new form of rebate that is subject to fraudulent applications.
- 1.3.17 During 2014-15 103 investigations concluded by the team were connected to CTR and 232 were connected to council tax discounts/exemptions. Evidence of CTR fraud or error was found in 30 cases where individuals had failed to declare changes in their circumstances that affected their entitlement to CTR and evidence of fraud or error was found in 124 cases where customers had failed to declare changes in their household that affected their entitlement to discounts/exemptions.
- 1.3.18 As a result of these investigations, CTR awards were reduced by £424.65 per week. An increase in the annual council tax liability of £22,081.80. The removal of discounts/exemptions increased the annual council tax liability by £36,161.54, giving a total increase of £58,234.34 in the annual council tax liability.
- 1.3.19 The investigations also identified excess CTR awards totalling £14,651.87 and additional council tax of £45,104.70 for historic periods where residents were found not to have been entitled to the discounts applied. In all cases these sums will be recovered as Council tax arrears.
- 1.3.20 Two people received cautions and one person received an administration penalty of £266.75 in relation to CTR offences. Twenty-five fixed penalties of £70 were also applied in cases where customers were found to have negligently failed to report a change affecting their entitlement to a discount. The total of £1,750 is fully retained by Tonbridge & Malling. One person was also convicted for an offence connected to a single person discount where she had failed to report her partner moved into the property. This was linked to a benefit offence.

### *Benefit Fraud*

- 1.3.21 Allegations of benefit fraud are received from a number of sources. Referrals received via data matching are sifted to confirm that there is a discrepancy that requires investigation while allegations received from other sources, such as members of the public or benefit staff, are risk assessed to determine which cases should be accepted for investigation. The assessment takes into account the type of allegation received, the quantity and quality of the information associated with it and the likelihood of an investigation being successful.

1.3.22 The team undertake as many investigations as possible and 139 investigations relating to allegations of benefit fraud were concluded during 2014-15. The results of these cases are shown in the table below:

Closure category	Number of cases
No Fraud	71
Incorrect Benefit**	43
Fraud Proven	25

\*\*The Department for Work and Pensions state that a benefit case may only be classified as fraud proven where a sanction is applied. Other cases where overpayments or other changes to benefits are identified but sanction action is not taken must be classified as customer error.

1.3.23 As a result of these cases, housing benefit entitlement has been reduced by £2,236.84 per week (£116,315.68 per year). They have also identified overpayments of housing and council tax benefit totalling £385,826.19.

1.3.24 Action was taken against a total of 32 people either through the courts or alternative sanction action. Seven people accepted cautions for their actions, 7 people accepted an administrative penalty totalling £4,845.04 and 18 people were successfully convicted.

## 1.4 Summary

1.4.1 Members were notified in April 2015 that the partnership arrangements with Gravesham Borough Council in relation to the post of Audit & Assurance Manager would end with effect from 15 May 2015. As a result Tonbridge & Malling has entered into a six month pilot arrangement with Kent County Council to provide Internal Audit management and also management of the Fraud Investigation Team. As a consequence, notice was served on Gravesham Borough Council to terminate the partnership arrangement for the Fraud Manager's post with effect from 19 June 2015.

1.4.2 Members have previously been advised of the pending changes surrounding benefit fraud and the implementation of the DWP Single Fraud Investigation Service (SFIS). The implementation has been running since October 2014 with local authority benefit fraud investigators transferring to the DWP and Tonbridge & Malling's date of transfer will be March 2016. As such, the Council retains responsibility for the investigation of alleged benefit fraud until March 2016.

1.4.3 Welfare reform and issues around social housing have caused a large amount of media attention in the last 2-3 years and there have been a number of TV programmes focused on the UK benefits system as a whole as well as those aimed at highlighting the counter fraud work undertaken by local authorities and the positive results coming from it. This media attention continues to fuel public

opinion and in doing so means that the volume of referrals being received continues to grow and not just in relation to benefit fraud.

- 1.4.4 The results detailed in this report clearly demonstrate that the Investigation Team has reacted positively to all allegations received, continuing to take its responsibility for the investigation of benefit fraud seriously while also responding to the other fraud risks affecting the Council. A table summarising the results of the work undertaken by the Investigation Team for 2014-15, together with results from 2013-14 for comparison is shown below.

Year	2013-14	2014-15
No. of Investigations Concluded	203	312
Weekly reduction in benefit entitlement (per year)	£3,775.44 (£196,322.88)	£2,236.84 (£116,315.68)
Total HB & CTB overpayments	£350,115.69	£385,826.19
Weekly reduction in CTR awards (per year)	£710.50 (£36,946.00)	£424.65 (£22,081.80)
Excess CTR	Included in benefit overpayment figures	£14,651.87
Value of historic SPD removals	£3,590.81	£45,104.70
Increase to CTAX base for future years for SPD removal	£36,946	£36,161.54
No. of Civil penalties (Total Value)	1 (£70)	25 (£1,750)
No. of Cautions	7	7
No. of Administration Penalties (Total Value)	5 (£5,137.58)	8 (£5,111.79)
No. of successful prosecutions	10	18
No. of people removed from the housing register	2	1

- 1.4.5 In the forthcoming years, the risk of the Council being subject to fraud and corruption activity is not likely to reduce. To ensure the Council maintains its currently strong counter fraud arrangements, there will need to be an assessment of the resources required to deal with the fraud risks that will remain post SFIS.
- 1.4.6 In November 2014, Kent County Council were successful with a bid for DCLG funding to create a county wide data warehouse to enable data matching between



the Kent authorities aimed at identifying fraud. The new 'Kent Intelligence Network' (KIN), is still in the early stages of its formation but it is hoped that this will be operational by the end of 2015.

## **1.5 Legal Implications**

- 1.5.1 The Council has a legal duty under s151 of Local Government Act 1972 and the Accounts and Audit Regulations to ensure that there are appropriate systems in place to prevent and detect fraud.
- 1.5.2 The Local Government Act 1972 provides the Council with the ability to investigate and prosecute offences committed against them.

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

- 1.6.1 Fraud prevention and detection is an area subject to central government focus with initiatives such as Protecting the Public Purse, National Fraud Initiative and Fighting Fraud Locally maintaining a high profile. The message coming from these initiatives is that effective fraud prevention and detection releases resources and minimises losses to the Council through fraud.

## **1.7 Risk Assessment**

- 1.7.1 Failing to have an efficient and effective counter fraud function could lead to an increased level of fraud. This report, summarising the work of the counter fraud function, provides a key source of assurance for the Council on the adequacy and effectiveness of its counter fraud arrangements.

Background papers:

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Nil

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