

FAREHAM

BOROUGH COUNCIL

Report to Audit and Governance Committee

Date: 23 July 2018

Report of: Head of Finance and Audit

Subject: ANNUAL COUNTER FRAUD REPORT

SUMMARY

This report updates the Committee on the counter fraud work carried out in the last 12 months including the numbers and outcomes of fraud cases.

RECOMMENDATIONS

That the content of the report be noted.

INTRODUCTION

1. This report provides an update of any actions taken in the last 12 months in support of our Anti-Fraud and Corruption Policy. It also includes details of the cases of fraud that have been investigated.

ACTIVITY SINCE THE LAST REPORT

Strategic Actions

2. **Raise a Concern Policy:** The employee ethics survey in 2016 appeared to indicate some limitations in the Council's Whistleblowing arrangements. A series of focus groups have therefore been held in the year to understand what could be done to strengthen our policy and processes.
3. A number of actions have been agreed as a result of this work, which included removing the negative connotations with the process by rebranding the policy as the "Raise a Concern Policy". The resulting new policy is attached as [Appendix D](#).
4. **Investigation qualification:** Two members of staff completed studying for the Accredited Counter Fraud Specialist qualification in September 2017, receiving their qualification certificates in January 2018. This qualification ensures that staff are suitably trained and qualified to carry out the full range of duties required in an investigation in a professional and legal manner. The previous qualification (PINS-Professionalism in Security) awarded by the Department for Work & Pensions (DWP) is no longer recognised as a suitable qualification for the types of fraud Local Authorities now investigate. This means that the Council now has 4 employees with counter fraud accreditation.

Specific Areas of Fraud

5. **Council Tax Payments in Caravan Park:** A proactive exercise by the Investigations Officer was undertaken last year, identifying a number of caravans that are not registered for Council Tax; in most cases these caravans are the resident's main and principle home.
6. **National Non-Domestic Rates (NNDR):** The Council was part of a group submission to take part in a discretionary proactive exercise organised by the Cabinet Office who lead on the National Fraud Initiative. The Council would provide its database of NNDR accounts include any receiving discounts for charitable relief, small business relief and enterprise zone relief. The Cabinet Office would run this data against various information hubs it has access to e.g. The Charity Commission, Communication directories etc and supply the authority with any resulting match reports. The Council would then investigate to determine if the relief discounts are still valid and indeed if any charges need to be applied for inappropriate relief discounts taken.
7. Basingstoke and Deane Borough Council were coordinating this project as a Hampshire wide review, but we have recently been informed that the Hampshire group has not been successful. The group is therefore now considering whether a similar exercise can be done locally without the use of Cabinet Office facilities.

8. **Single Residents Discount (SRD) Review:** The Hampshire Chief Finance Officers are considering engaging a third-party company to undertake a review of all SRDs, led by Winchester City Council. The company will be given our SRD data and send out a letter for each one. They will then carry out a data matching exercise with all the returned letters. Fareham will decide what action to take with those accounts where letters have not been returned once numbers are known. The company will operate on no win no fee basis, and where an inappropriate discount is found the fee charged will be less than the amount of Council Tax recovered by the Council.

INVESTIGATION REFERRALS AND OUTCOMES

9. The information provided in [Appendix C](#) shows the number of fraud and irregularity cases received and investigated in the last financial year, and the information required to be published on our website in accordance with the Transparency Code. There was a total of 694 cases investigated, leading to 172 cases of fraud or irregularity being found. These amounted to a total value of £297,122. The largest value of fraud found was for housing benefit payments (£240,416); the majority of this (£180,899) was found as a result of investigating council tax support cases.

Whistleblowing

10. There were no cases of serious concern raised by an employee in the last 12 months and no employee has felt it necessary to raise concerns outside the organisation.

Sanctions

11. There have been no criminal sanctions following any investigation where Fareham Borough Council was the lead investigating party. However, 59 civil penalties have been applied, totalling **£4,130**.
12. One Council property has been recovered because of a Tenancy fraud investigation concerning non-residency. Criminal charges were not brought against the tenant as the keys were handed back in within the notice to quit period. One homelessness application was also found to be fraudulent and so the letting of a Council property was prevented.

Interesting Cases

13. **Multiple Fraud:** A single mother of four children claimed to have moved into the area and occupying a privately rented property since March 2017. A claim was set up for Housing Benefit, Council Tax Support and Council Tax Single Resident Discount.
14. The figures she gave to benefits staff regarding her expenses were suspicious and it was believed that she had either undeclared income or an undeclared partner and that she was possibly not even living at the address. A lengthy investigation followed, which included a period of surveillance.
15. The investigation showed that the claimant was actually living with her supposedly ex-partner, who is the father of two of her children, at a large house out of the area. No Council Tax was being paid for that property. The partner owned this house and also owned the one where the benefit claim had been set up in the Fareham area; the latter was a company asset owned by his building company. The Tenancy Agreement was

found to be a forgery created to assist the claim for benefits. Benefit rules do not allow Housing Benefit (HB) to be paid to someone whose landlord is the father of their children.

16. The claimant had also claimed help with childminding expenses which were being paid to her mother. Investigation showed that she was not a registered childminder. Investigation also identified an undeclared pet food business which had been operating for over a year.
17. The final HB overpayment has been calculated at over £10K, as summarised below, and the DWP will likely be prosecuting. The issue of a Civil Penalty has been recommended in accordance with Council Tax Reduction regulations.

Council Tax Support	£1,500
Housing Benefit	£10,000
Outstanding overpayment	£1,500
Total Overpayments	£13,000

18. **Right to Buy:** A recent investigation has identified a fraudulent Right to Buy application. The investigation began in September 2017 and involved a period of directed surveillance which confirmed that the suspect was not residing in a property owned by Fareham Borough Council and which had allegedly been occupied since May 2017. Instead the applicant was living with a partner elsewhere in the Fareham area and had been for a number of years.
19. We now hold evidence which shows that the applicant has also not occupied a previous property which indicates that this fraudulent activity may also extend to a third address, one owned by a Housing Association. Therefore, he has not occupied much needed social housing accommodation allocated to him after he claimed to be homeless, which should have been allocated to someone genuinely in need.
20. He then used his periods of falsely recorded tenancy to mutually exchange and obtain a secure tenancy with Fareham Borough Council and subsequently attempted to purchase the property under the Right to Buy Scheme.
21. It was also identified that the applicant had failed to declare a Trust Fund where money had been used to purchase a property in Gosport. This has adversely affected various means tested benefits and allowances claimed by the applicant for several years and overpayments have been identified totalling £13,916 of which £1,617 represents the overpayment of Council Tax Support. There are also overpayments of Council Tax Single Resident Discount at the claimant's 2 properties he was not living at; plus, his wife's overpayment as he was living with her. All three totalled £5,577.
22. The property the applicant intended to purchase through the Right to Buy scheme has now been recovered. The investigations Team are seeking to prosecute the suspect under Section 2 of The Fraud Act 2006 – Fraud by False Representation and also to prosecute the suspect's partner under Part 2 Sections 44 to 47 of The Serious Crimes Act 2007 – Encouraging or assisting an offence (Aiding and Abetting). The amount of

discount that the Council would have lost against the value of the property was £78,600.

Council Tax Support	£1,617
Housing Benefit	£12,299
Council Tax Single Resident Discount	£5,577
Right To Buy Fraud	£78,600
Total Overpayments	£98,093

23. **Undeclared Earnings:** During a recent match of NFI information against FBC Tax Licensing records, it was discovered that a claimant of Housing Benefit and Council Tax Support had not declared employment as a Taxi driver within the Borough. Investigation showed that he was working for a local company on a school mini-bus contract. He was self-employed and being paid cash in hand as a way of avoiding earnings showing on a bank statement which he regularly provides for benefit purposes.
24. The claimant also receives Pension Credit and evidence was shared with the DWP, which was accepted and a £1,500 overpayment of Pension Credit was created. This allowed a £107 Housing Benefit and £96 Council Tax Support overpayment to be created and the person was awarded a £70 Civil Penalty. The reason that these overpayments were so low was because the claimant was on a low level of benefit anyway as he received carers allowance for being his wife's carer and they both received income from Disability Living Allowance.

Council Tax Support	£96
Housing Benefit	£107
Pension Credit	£1,500
Total Overpayments	£1,703

25. **Undeclared relationship, property and income:** Recently an investigation was conducted regarding the true and declared financial situation of a claimant of Housing Benefits and Council Tax Support. A couple had split up, but investigation identified a second property owned by the partner whilst they were claiming as a couple. FBC had been told that the property was uninhabitable and ignored for benefit purposes in accordance with regulations. However, it was found that this property was being let providing an undeclared rental income of £1,600 per month. A £70 Civil Penalty was awarded.

Council Tax Support	£891
Housing Benefit	£13,131

Total Overpayments	£14,022
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NATIONAL FRAUD INITIATIVE

26. The National Fraud Initiative (NFI) is a data matching exercise organised by the Cabinet Office. All data sets requested since the last report have been submitted on time. There have been 8 further releases of new matches since the last report which fall into the 2017/18 financial year.
27. The table below shows the progress made on clearing all matches since the last report. It should be noted that the matches prior to 2016/17 have been closed by the Cabinet Office and so are no longer showing in the tables. Any frauds that were being pursued by FBC will have been included in the overall statistics in [Appendix A](#).

Progress Made on Clearance of NFI Matches

Date of Matches	Subject of match	Number of matches received to review	Number of matches still to clear - last report	Number of matches still to clear - current
Dec 2017	Council Tax	5,469	NEW	5,441
Dec 2016	Council Tax	669	43	1
2017/18 Extra matches received	Benefits	16	NEW	11
	Council Tax Reduction	6	NEW	5
	Housing Tenants	21	NEW	20
	Total	43		36
2016/17 2-yearly main exercise (Received Jan 2017)	Benefits	447	260	88
	Council Tax Reduction	487	354	303
	Housing Tenants	173	163	163
	Waiting List	110	110	110
	Right to Buy	4	2	2
	Payroll	13	0	0
	Creditors	339	286	247
	Total	1573	1175	913
Grand Total		7,754		6,391

28. The table below shows the number and value of fraud cases arising from the clearance of NFI matches in the last 12 months. More detail of how much fraud and error has been identified from each NFI exercise is provided in [Appendix A](#).

Fraud Cases Identified from NFI

Data Set	Nature of Fraud	Date of Committee Report					
		July 2018		Sept 2017		Jun 2016	
		Number	Value	Number	Value	Number	Value
Housing Benefits and CTR	Undeclared earnings of adult at the property.			1	£382	1	£1,445

Data Set	Nature of Fraud	Date of Committee Report					
		July 2018		Sept 2017		Jun 2016	
		Number	Value	Number	Value	Number	Value
Council Tax	Undeclared second adult living at property	16	£17,580	6	£2,192	5	£2,498
TOTAL		16	£17,580	7	£2,574	6	£3,943

USE OF LEGAL POWERS

29. Key powers available to investigators for the detection and prevention of fraud are:
- Powers of Surveillance, using a Covert Human Intelligence Source, or obtaining Communications data designated by the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016.
 - Authorised Officer powers to obtain information from specified parties including employers, utilities companies and banks under the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 Regulations and the Prevention of Social Housing Fraud (Power to require Information) (England) regulations 2014
30. There are several safeguards in the Council processes to make sure that investigation powers are only used when legal, proportionate and necessary. These include:
- a) All RIPA applications are required to be authorised by a trained designated officer in the Council.
 - b) All RIPA authorisations are presented to a magistrate for approval.
 - c) All RIPA applications for communications data are also submitted to the National Anti-Fraud Network (NAFN) where they are reviewed and authorised by a NAFN officer before the request for information is issued.
 - d) All approved RIPA authorisations are logged on a central register which flags up when they expire. A formal cancellation form is completed for every application.
 - e) The Council is required to complete annual returns on the use of the RIPA powers and is subject to an inspection every 3 years from the Investigatory Powers Commissioner's Office (IPCO). The last inspection in 2018 concluded that 'our usage and standards are an example to all'.
 - f) The National Anti-Fraud Network (NAFN) is subject to an annual inspection of the Interception of Communications Commissioner's Office (IOCCO), which may cover applications made by Fareham Borough Council depending on the sample they select to test.
 - g) Most Authorised Officer powers are also executed via application to the National Anti-Fraud Network (NAFN). They are reviewed and authorised by a NAFN officer before the request for information is issued.
31. We also report every year to this committee how many times we use these powers, as follows and publish the frequency of our use of authorised officer powers as part of our Transparency data.

Usage in 2017/18

32. There have been 4 authorisations granted under the Regulation of Investigatory Powers Act 2000 (RIPA) between 1 April 2017 and 31 March 2018 as summarised in [Appendix B](#).
33. There have been 154 uses of Authorised Officer powers during investigations in the last 12 months, as detailed in the table below.

Authorised Officer powers used 1 April 2017 and 31 March 2018	
Prevention of Social Housing Fraud Act	Council Tax Reduction Regulations & Data Protection Act exemption 29 (1)
28	126

RISK ASSESSMENT

34. There are no significant risk considerations in relation to this report.

Appendices

Appendix A – Cumulative Findings from National Fraud Initiative Exercises

Appendix B - Authorisations for use of RIPA

Appendix C - Annual Fraud Case Figures 2017/18

Appendix D – Raise a Concern Policy 2018 (separate attachment)

Background Papers: None

Reference Papers: None

Enquiries: For further information on this report please contact Jenny Moses (Ext 4333) or Andrea Kingston (Ext 4618).

Cumulative Findings from National Fraud Initiative Exercises

Year of Exercise*	Type	No. of Matches	No. of Fraud Cases found	Value of Fraud cases	No. of Errors found	Value of Errors
2017/18	Council Tax	5469	0	0	0	0
2017/18	Extra Matches	43	0	0	0	0
2016/17	Council Tax	669	25	£23,509	32	£667
2016/17	Full Exercise	1573	1	£382	7	£2,605
2015/16	Waiting List	42	0	0	7	£0
2014/15+2015/16	Full Exercise	994	13	£15,901	12	£0
2014/15+2015/16	Council Tax	1,054	6	£3,149	0	0
2014/15	Student Loans	19	1	£1,258	0	0
2013/14	Council Tax	553	34	£13,774	4	£1,334
2012/13	Full Exercise	1,333	13	£34,838	14	£14,724
2011/12	Council Tax	484	21	£12,264	2	£770
2010/11	Full Exercise	1,760	335[#]	£26,356	13	Not split out
2009/10	Council Tax	1,424	43	£18,648		
2008/09	Full Exercise	1,779	212[#]	£54,978	3	Not split out
2008/09	Council Tax	747	130	£87,920	3	Not split out

*Compilation of the results of NFI started to be compiled in this way in 2008/09. Those exercises in bold have been completed so there will be no further findings.

Included match of concessionary travel permits against deceased database with no monetary value used.

Appendix B

Authorisations for use of RIPA (April 17 to March 18)

Ref No	Date Authorised Internally	Authorising Officer	Suspected Offence	Investigation power used	Date Authorised by a Magistrate	Duration of authorisation (in days)	Outcome for the Investigation
1	27/07/17	Head of Housing, Revenues and Benefits	Housing Benefit Fraud Council Tax Support Fraud Council Tax Single Resident Discount Fraud On the basis of non-residency at claimant property, landlord was related to the children in the property, and was an undeclared partner at the true residence.	Surveillance	01/08/17	42	Surveillance cancelled for operational reasons but did assist the investigation
2	24/10/17	Head of Housing, Revenues and Benefits	As above	Surveillance	25/10/17	55	Evidence obtained that crime or Disorder MAY BE occurring
3	14/11/17	Head of Housing, Revenues and Benefits	Right to Buy Fraud Housing Benefit Fraud Council Tax Support Fraud Council Tax Single Resident Discount Fraud On the basis of non-residency at claimant property and undeclared partner at true residence, who in turn is claiming SRD.	Surveillance	14/11/17	62	Evidence obtained that crime or Disorder MAY BE occurring
4	15/01/18	Head of Housing, Revenues and Benefits	Tenancy Fraud Housing Benefit Fraud Council Tax Support Fraud Council Tax Single Resident Discount Fraud at neighbouring council. On the basis of non-residency at claimant property, and undeclared partner at true residence, who in turn is claiming SRD.	Surveillance	16/01/17	90	Evidence obtained that crime or Disorder MAY BE occurring

Annual Fraud Case Figures 2017/18

2017/18			
Type of Fraud	Number of Cases		
	Investigated	Fraud Concluded	Value
Housing Benefit & Council Tax Benefit	341	67	£240,416
Council Tax Support	171	63	£36,273
Council Tax	86	21	£20,413
NNDR	-	-	-
Housing	32	3	-
Procurement	41	1	-
Permits and Passes	-	-	-
Other	5	3	-
SUB-TOTAL	676	158	£297,102
Other Irregularity	Investigated	Irreg Concluded	Value
Employee	12	11	-
Finance and Insurance	1	1	£20
Other e.g. abuse of position	5	2	-
SUB-TOTAL	18	14	£20
TOTAL	694	172	£297,122
Sanctions and Redress			
Administrative Penalties			£10,887
Council Tax Civil Penalties			£4,130
Housing benefit recovered			£42,906
Counterfeit note intercepted			£20
Compensation and Other awards			£4,500
POCA Confiscation			£1,411
Total			£63,854
Housing Properties Recovered / Prevented		2	
Non FBC Fraud found		13	£118,451

2016/17			
Type of Fraud	Number of Cases		
	Investigated	Fraud Concluded	Value
Housing Benefit & Council Tax Benefit	352	53	£233,772
Council Tax Support	274	59	£37,257
Council Tax	1,118	31	£26,051
NNDR	-	-	-
Housing	67	6	£69,613
Procurement	54	1	£117
Permits and Passes	1	1	£166
Other	-	-	-
SUB-TOTAL	1,866	151	£366,976
Other Irregularity	Investigated	Irreg Concluded	Value
Employee	19	5	£29
Finance and Insurance	2	2	£1,209
Other e.g. abuse of position	2	1	-
SUB-TOTAL	23	8	£1,238
TOTAL	1,889	159	£368,213
Sanctions and Redress			
Administrative Penalties			£11,934
Council Tax Civil Penalties			£3,920
Housing benefit recovered			£60,428
Counterfeit note intercepted			£20
Compensation and Other awards			
POCA Confiscation			
Total			£76,302
Housing Properties Recovered / Prevented		1	
Non FBC Fraud found			Not recorded