

Strategic Fraud Update

AUDIT COMMITTEE

Date: 26th January 2010

Author: Head of Internal Audit

Wards Affected: None

Purpose

This report provides an update of current developments in respect of fraud against the public sector and how we are responding to them at Swindon Borough Council.

Recommendations

- It is recommended that the contents of the report be noted.
- Members are asked to consider the robustness of the counter-fraud arrangements in the Council and how effective they are.

1 Reasons

- 1.1 The Council's Audit Committee has a strategic role to ensure that the Council's assurance framework is operating effectively. To this end it should seek assurance that key areas that contribute to this framework are operating properly.
- 1.2 The pro-active anti-fraud work of both Internal Audit and the Benefits Fraud Team contributes to this assurance framework.
- 1.3 Anti-fraud and corruption work is included as a sub-theme of the Use of Resources Assessment.

2 Detail

2.1 Introduction

- 2.1.1 There has been a number of developments regarding fraud in the public sector which have, in the last year, considerably raised the profile of how organisations tackle fraud. The purpose of this report is to advise the Committee of these developments and how Internal Audit and the Benefits Fraud Team are responding to them.

2.2. Fraud Review and the National Fraud Authority

- 2.2.1 In 2006, the new Fraud Act came into effect and the Government published the findings from its Fraud Review - a development which aims to reduce the harmful effects of fraud on the UK economy and society by means of a co-

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ordinated and strategic approach. It encourages public and private sectors to work together in tackling fraud and makes a considerable number of recommendations including the creation of the National Fraud Authority (NFA) in 2008 and publication of a National Fraud Strategy that was issued in March 2009.

- 2.2.2 The NFA has a key aim of co-ordinating activity across the whole economy to make the UK a 'hostile environment for fraudsters'. Their priorities include building and sharing knowledge about fraud, tackling the most serious and harmful threats, developing strategies to disrupt fraudsters, supporting victims of fraud and improving the UK's long term capability to prevent fraud.
- 2.2.3 Current focuses of the NFA that affect the public sector include detailed reviews on identity fraud and the impact that the recession is having on the level and type of fraud being committed.

2.3. Audit Commission Report - Protecting the Public Purse - Local Government Fighting Fraud (September 2009)

- 2.3.1 This Audit Commission national report sets out their most recent findings resulting from their National Fraud Initiative (NFI) Data Matching exercise. The Commission acknowledge that there have been improvements in the efforts made in the public sector to strengthen measures to tackle fraud including:
- improving national frameworks and strategic partnerships with public and private sectors working together in the fight against fraud
 - a general improvement in governance arrangements in local authorities with most Council's now having Audit Committees
 - external audit review of Councils' counter-fraud arrangements as part of the Use of Resources assessment
 - improved data-matching capabilities in an effort to detect fraud.

Areas for attention

- 2.3.2 However, there are three specific areas that the Commission report as often not being adequately addressed at a local level. These are:

(1) Housing Tenancy Fraud

Housing tenancy fraud is the occupation of social housing by those who are not entitled to it. This mainly results from false applications for housing, tenancy succession fraud where the property is no longer occupied by the original tenant and illegal sub-letting of Council property. The report recognises that whilst rent is still receivable by the landlord in respect of their property, other impacts of this type of fraud include the

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social impact of limited permanent housing solutions as well as the associated indirect costs e.g. re-housing families in temporary accommodation who are awaiting allocation of Council accommodation.

The Audit Commission clearly view tenancy fraud as a significant area of concern and for the first time have provided funding for participation in a new element of NFI matching which draws together data from across the social landlord sector.

(2) Local Taxation - Single Person's Discount Fraud

The Commission's report advises that nationally Councils have noticed a sharp increase in the number of people claiming SPD and in the number of fraudulent claims for it. The report also identifies that whilst councils do recover current years discounts if they are found to be fraudulent, previous year entitlements are not always recovered - the Commission reports that back-dating recovery to the time the fraud started can have significant financial as well as deterrent effect.

The Council submitted data in 2009 and received 1,696 matches where a person was claiming/being awarded Council Tax Single Person Discount and more than one adult was registered on Electoral Registration system at the same property. There were also 303 matches relating to rising eighteen year olds. Of these matches 1,515 have been processed of which 54 were found to be fraudulent and a further 255 were errors. The resulting saving, to date, is £136,723.38.

Data sets will be submitted to the Commission again in January 2010. The results are awaited and anticipated in March 2010. Local Taxation staff will be advised of this latest advice from the Audit Commission regarding recovering of previous year discounts.

(3) Recruitment Fraud

Their report warns of the dangers of employing people in posts when the applicant's identity, qualifications, previous job history and criminal record status has not been thoroughly checked. Possible consequences of such practice include the risk of harm to vulnerable people, employment with no right to work in the UK, cost of re-recruiting and training staff, costs of disciplinary action/suspension and dismissal, high levels of absence, low performance and fraudulent losses.

Internal Audit is currently reviewing the Council's recruitment vetting procedures and benchmarking these with both best practice guidance (Internal Audit have also visited Waltham Forest Council to look at their vetting procedures) and good practice adopted elsewhere, via the West of England Chief Auditors' Fraud Sub Group.

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Impact of the Recession

- 2.3.3 The Commission report also focuses on the impact the recession is having on the risk of fraud and concludes that the risk of fraud is likely to increase because of current pressures in the economy. Higher demand for local authority services coupled with financial cut backs and efficiency drives may increase the incentive for some people to commit fraud at the same time as weakening controls which prevent, or detect fraud. It is therefore vital that councils maintain strong and efficient defences against fraud to address this increased risk.
- 2.3.4 Internal Audit is currently drafting a fraud risk assessment methodology that will support the current pro-active fraud-testing programme. This risk assessment methodology will be based on best practice and include a review of the impact of fraud in the current economic climate. Key managers across the Council will be consulted to ensure they engage with the need to manage effectively the fraud risks faced in their Directorate and ensure it provides a sound basis for pro-active fraud work in Internal Audit.
- 2.3.5 Additionally, the Audit Committee should consider the merits of maintaining at least the current level of Internal Audit resource at this time of economic downturn.
- 2.3.6 In the light of the above, careful consideration needs to be given to the level of Internal Audit resource that can and should be dedicated to fraud work in 2010.

Staying focussed

- 2.3.7 The report also identifies several areas which could have significant financial or social impact if fraud occurs and recommends that councils should continue to remain focussed and review their arrangements to prevent fraud in these areas. They are:
- Housing and Council Tax Benefit - due to the level of expenditure and level of identified overpayments made (fraudulent and otherwise) and the withdrawal of incentive schemes that have previously funded dedicated counter fraud teams in this area (see also paragraph 2.7 below).
 - Procurement - due to the level of expenditure and intelligence about the level and type of fraud in this area available to the Commission.
 - Social Care Direct Payments - the Commission acknowledge the significance associated with improved choice but also recognise that this might also provide fraudsters with an opportunity to misuse public funds.
 - Disabled Parking Badge Concessions - due to the number of blue badges in use in England (about 2.3million) and their research that they are worth approximately £500 each on the black market. Income losses for Councils

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results as well as genuine holders of such badges being denied the parking facilities they are entitled to.

- Insurance Claims - due to the level of bogus/inflated claims made - the UK insurance industry estimates that it loses more than £1.9 billion each year to this type of fraud.
- Abuse of Position - the report recognises that local government officers are overwhelmingly honest however some serious frauds had been reported where weak internal controls had allowed individuals to abuse the trust placed in them.

Minimising Fraud Opportunities

2.3.8 The report concludes that there is more that councils can do to minimise fraud opportunities including:

- assessing the effectiveness of current arrangements to prevent and detect fraud. A checklist is appended to the Audit Commission's report and it is recommended that the Audit Committee consider the robustness of counter-fraud arrangements in the Council and how effective they are. The checklist has been reproduced at Appendix 1 along with relevant comments.
- focussing on high risks (the Council's approach to the high risk areas is detailed above and in the checklist).
- setting clear targets and monitoring the return from their investment in counter-fraud resources. With the exception of housing benefit fraud, setting such targets is difficult. We will liaise with colleagues in other authorities to try and establish best practice.
- working with other organisations to reduce fraud and the harm it causes. Again, it is intended to raise this as an area for consideration by the West of England Chief Auditors' Fraud Group to ensure the Council engages best practice in this area.

2.4. Chartered Institute of Public Finance and Accountancy (CIPFA) Guidance - Managing the Risk of Fraud - Red Book 2

2.4.1 Recognised by the Audit Commission as one of the most authoritative sources of guidance on countering fraud in the public sector, this addresses good practice in five key action areas as follows:

- adopting the right strategy - specifically, ensuring local strategies align to the national fraud strategy and contribute to its success.
- accurately identifying the risks - the Commission is re-introducing an annual fraud survey to provide a base to assist in fraud measurement and analysis

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- creating and maintaining a strong structure - the Commission recognises the benefit of an effective Audit Committee in countering fraud as well as the advantages of working with others in a collaborative and concerted way.
- taking action to tackle the problem - the Commission's report advises that a strong counter fraud culture is fundamental to reduce the harm caused by fraud and in gaining public confidence. Anti-fraud, whistleblowing and money laundering policies should be reviewed and policy commitments in relation to counter fraud translate into action.
- defining success - the Commission stress the need for counter-fraud teams to demonstrate their practical effectiveness and the contribution they make to preventing and detecting fraud by having clear targets and expected outcomes.

2.4.2 A gap analysis of best practice suggested by the Cipfa Red Book against the Council's current practice is currently being completed. Any necessary actions identified as a result of this work will be reported to the Audit Committee at a later date.

2.5. National Fraud Initiative (data submitted in 2009, matches investigated 2010)

2.5.1 The Council, via Internal Audit, has again participated in the Audit Commission's National Fraud Initiative (NFI) as part of the statutory external audit requirements. The NFI brings together data from across the public sector including local authorities, NHS, the Home Office/other government departments and other agencies to detect "matches" i.e. anomalies in the data which may or may not be indicative of fraud, for further investigation.

2.5.2 Since its launch in 1996, the NFI is reported to have identified fraud and overpayments totalling in excess of £450 million nationally.

2.5.3 For the 2008/09 exercise, data sets in respect of the following sources were nationally obtained and matched:

- Housing Benefit
- Housing Tenancy
- Student Loans
- Payroll
- Illegal immigrants
- Individuals with no recourse to public funds
- Pensions
- Licence holders - Taxi Drivers, Market Traders and Alcohol

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- Blue Badge Records
- Deceased persons
- Concessionary fares
- Residential Care
- Insurance
- Creditor Records

2.5.4 An update on the progress made in investigating matches was reported to the previous meeting of the Committee (see also 2.3.2(2) above). A further update will be provided at the March meeting.

2.5.5 The Audit Commission intend to release their overall report of outcomes from NFI 2008/09 in May 2010 and have extended this to the two interim matches regarding tenancies and local taxation discounts. In November 2009, the Audit Commission released their proposed work programme and scale of fees for NFI 2010. This will be confirmed in March 2010 with full instructions received during June 2010 and proposed data download dates in October 2010.

2.6 Other Fraud Matters:

Use of Resources assessment 2008/09

2.6.1 The Use of Resources assessment contains ten separate themes, one of which is 'Internal Control' (2.4). Within this theme there is a sub-theme that examines whether the Council has 'A clear strategy and effective arrangements, including allocation of appropriate resources, to manage the risk of fraud and corruption'. The Audit Commission reported in their Use of Resources assessment for 2008/09 that the theme of 2.4 scored a three (out of a maximum of four) indicating that the Council was performing well in this area.

2.6.2 The 2009/10 Use of Resources assessment will be carried out during February and March 2010.

Raising Awareness of Fraud

2.6.3 Several initiatives continue in an attempt to raise awareness of fraud issues. For staff, there is a quarterly fraud bulletin that aims to alert them to current fraud issues and provide examples of real frauds that have taken place within the region.

2.6.3 Regular use of the Council's Core Brief is used to raise staff awareness of the Council's anti-fraud and corruption strategy and whistleblowing policy.

2.6.4 Internal Audit staff continues to make use of fraud awareness groups, both nationally and regionally, to maintain an awareness of frauds occurring that could

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affect the Council. Additionally, the Groups often share best practice in the fight against fraud. Specifically, Internal Audit is an active member of the National Anti-fraud Network (NAFN), the West of England Fraud Group and the CIPFA Better Governance fraud forum.

- 2.6.5 Internal Audit are rolling out a series of Fraud Awareness sessions for management teams concentrating on areas that the staff survey indicated had lower confidence levels in the Whistleblowing process.

Fraud Benchmarking and Fraud Statistics

- 2.6.6 The annual Audit Commission survey was completed and submitted in December 2009. The survey will be used as an additional source of information to inform Internal Audit's proactive fraud work.
- 2.6.7 In January 2009, the West of England Fraud Sub Group will be conducting a fraud benchmarking exercise that concentrates on identifying and comparing numbers and types of fraud and the amount of time spend on anti-fraud activities. This will help to inform the Council's own assessment of fraud risk as well as give an indication of the effectiveness of our anti-fraud arrangements. The outcome of this benchmarking will be reported back to a future meeting of this committee.
- 2.6.8 The following summary provides a brief summary of the levels of investigations undertaken by Internal Audit over the past few years.

	2007/08	2008/09	2009/10 (to Dec 09)
No. of Whistleblowing investigations	5	3	9
No. of other investigations	10	12	10
Total	15	15	19

Investigations Procedure Review

- 2.6.9 Work is in progress with the Western Unitaries Audit Group (Bristol, Bath and North East Somerset, South Gloucestershire, North Somerset and Swindon) to develop a best practice approach for Internal Audit staff when investigating potential fraud. Once it is finalised it will include procedures and documentation to ensure legal and best practice requirements are met during investigative work.

2.7 Future Action

- 2.7.1 Future action regarding anti-fraud and corruption work will be included in the updated Anti-Fraud and Corruption Strategy that will be presented at the March meeting of the Committee and in the annual audit plan.

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2.8 Benefits Fraud Team

- 2.8.1 The Benefit Fraud Team consists of 6 members made up of a Manager, Senior Investigator, 3 Investigators and a Technical Support Officer. Currently the Investigators are a Contract Investigator and a Trainee Investigator, leaving one full time investigator.
- 2.8.2 The Team investigates allegations of irregularity in the claims submitted from persons in receipt of Housing and Council Tax Benefit. These referrals come from a variety of sources, phone calls, letters, email, personal reports, and data matches from HBMS and the Audit Commission National Fraud Initiative. A proportion of the investigations involve joint working with the Fraud Team from Jobcentre Plus.
- 2.8.3 Following the receipt of a referral there are office-based checks made both with in-house systems and the use of 'legal Gateways' with external agencies. The foremost of these being the National Anti-Fraud Network.
- 2.8.4 Once it has been established that a potential offence has been made the claimant is invited to attend an Interview under caution. This is a formal tape-recorded interview conducted in the same manner as the Police or other Law Enforcement Agencies. As the result of that interview a decision is made as to the disposal of the referral.
- 2.8.5 The Benefit Fraud Team follows guidelines set down by the Department for Work Pensions as to Sanctions and Prosecutions. Depending on the financial loss to the Authority one of three Sanctions can be administered. Two are alternatives to Prosecution, which are Formal Cautions and Administrative Penalties. In the latter case the claimant is asked to accept a 'fine' of 30% of the total overpayment. In both cases the claimant does not receive a Criminal Record. Prosecutions are sought only for the more serious or high profile cases. A file of evidence is prepared and forwarded to the Solicitors Branch of the Department for Work and Pensions who will prosecute on behalf of the Council through the Criminal justice system.
- 2.8.6 Since 1 April 2009 to the present date the Benefit Fraud Team has identified overpayments of Housing and Council Tax Benefit totalling £140,791. This is made up of 5 Prosecutions, 13 Administrative Penalties and 22 Formal Cautions.
- 2.8.7 There have been 533 referrals made to the Team since the 1 April 2009
- 2.8.8 The Fraud Manager is also an accredited Financial Investigator. This enables investigations to be conducted under the Proceeds of Crime Act 2003 to recover monies from criminal activity. There are a number of cases that are being prepared for submission to the Crown Court for Confiscation Orders to be made.

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Alternative Options

Not Applicable

Risk Management

Financial and Procurement Implications

There are no direct financial implications arising from this report however individual audit reports address the suitability of internal controls within the systems examined.

Legal/Human Rights Implications

Internal Audit is a statutory requirement of the Accounts and Audit Regulations 2006. The Internal Audit service also provides assurance to the Director of Finance regarding the requirements of Section 151 of the Local Government Act 1972.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

Internal Control, Audit Committee and the Statement on Internal Control all feature significantly in the CPA Use of Resources Assessment. Effective systems of internal control within the Council will help to ensure that the objectives set out in the Corporate Plan and Swindon 2010 are achieved.

Consultees

The Director of Finance (Section 151 Officer) and the Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.

Benefits Counter Fraud Manager

Appendices / Background papers

Appendix 1 – checklist taken for the Audit Commission publication: Protecting the Public Purse

Key Decision/Decision in Forward Plan

Not Applicable