

Title: Corporate Fraud Investigation Performance Report 2023/24

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Portfolio Holder: Councillor Chilvers

Wards of the District directly affected: None directly impacted

Approvals required	Date	Name
Portfolio Holder	12 December 2024	Councillor Chilvers
Finance	12 December 2024	Andrew Rollins
Legal Services	Not applicable	
Chief Executive	12 December 2024	Chris Elliott
Strategic Director	12 December 2024	Dave Barber
Head of Service(s)	12 December 2024	Andrew Rollins
Section 151 Officer	12 December 2024	Andrew Rollins
Monitoring Officer	12 December 2024	Graham Leach
Equalities, Diversity and Inclusion Business Partner	12 December 2024	Daniel Keating
Leadership Co-ordination Group	12 December 2024	Various
Final decision by this Committee or rec to another Cttee / Council?	Yes	
Contrary to Policy / Budget framework?	No	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	No	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	No	
Accessibility Checked?	Yes	

Summary

The Report provides details of the performance by the Corporate Fraud Investigation team for 2023/24.

Recommendations

- 1 That the report, including its appendices, be noted.
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1 Reason for the Recommendations

1.1 The purpose of an audit committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes. Counter-fraud activity forms a key part of each of those elements thus providing the required assurance to Members.

1.2 Definitions, types, and scale of fraud

1.2.1 All references to fraud within this document include any type of fraud-related offence. Whilst the Fraud Act (2006) (the 'Act') does not provide a single definition of fraud, it may be described as 'theft by deception'. The key characteristics of fraud include an individual acting dishonestly and with the expectation of either making a gain for themselves or another person, or causing loss to a third party.

1.2.2 The Act identifies fraud as a single offence that can be committed in three separate ways:

- Fraud by false representation – A person dishonestly makes a false representation, intending to make a gain for himself or another, or to cause loss another or to expose another to a risk of loss. The legal definition of 'representation' is broad and includes written, verbal, and non-verbal communication.
- Fraud by failing to disclose information – A person dishonestly fails to disclose to another person information which they are under a legal duty to disclose, and intends, by failing to disclose the information to make a gain for himself or another, to cause loss to another or to expose another to a risk of loss.
- Fraud by abuse of position – A person abuses their position, intending to make a gain for themselves or another or to cause loss to another.

1.2.3 In 2012 the government set up a body to examine fraud in local government. It's latest paper entitled "Fighting Fraud and Corruption Locally: A strategy for the 2020s" highlights that, whilst "we do not have a wholly reliable estimate of the total scale of economic crime ... all assessments within the public and private sectors indicate that the scale of the economic crime threat continues to grow".

1.2.4 Estimates of the value of fraud perpetrated annually against local authorities generally exceed £2 billion with figures suggested as being up to £7.8 billion.

These figures do not generally take into account the indirect costs of responding to and dealing with fraud.

1.3 Arrangements at WDC

- 1.3.1 In February 2015, the Housing Benefit Fraud Investigation function at Warwick District Council transferred, like others, to the Department for Work and Pensions (DWP) under the auspices of the Single Fraud Investigation Service (SFIS).
- 1.3.2 Following several unsuccessful attempts to recruit suitably-qualified investigation staff, alternative options for providing the service were considered. In February 2016 arrangements were agreed with Oxford City Council to provide a Corporate Fraud Service for Warwick District Council. The Fraud Unit at Oxford City Council had been, and still are, providing a fraud investigation service for a number of other councils. Over the years, the service at Oxford has won many 'industry' awards from bodies such as the Institute of Rating Revenues and Valuation (IRRV), including 'Excellence in Corporate Fraud'.
- 1.3.3 Warwick District Council pays for one full time equivalent employee from Oxford City Council. This is achieved through a small number of individuals (mainly two) employed by Oxford. This arrangement provides a range of skills and expertise.
- 1.3.4 Most of the investigations undertaken by the team are 'reactive' investigations. These involve the search for and the gathering of evidence following an allegation or fraud referral, or the discovery of a set of circumstances which amount to an offence. In these cases, the offence is usually already being committed. An example would be where a member of the public contacts a council to inform them that one of their council tenants is unlawfully sub-letting their council property.
- 1.3.5 One source of referral is the National Fraud Initiative (NFI). The NFI, coordinated by the Cabinet Office, matches electronic data within and between public and private sector bodies to help prevent and detect fraud. These bodies include police authorities, local probation boards, fire and rescue authorities as well as local councils and a number of private sector bodies. Participation in the NFI is mandatory for councils who are required to submit data to the National Fraud Initiative on a regular basis. The Council has always sought to investigate most matches that are received from the NFI, despite the exercise being resource-intensive and usually delivering very little in the way of results.
- 1.3.6 As part of the contract, the team from Oxford also provides fraud awareness training sessions to staff across the Council.

1.4 Types of Fraud Investigated at WDC by the Corporate Fraud Team

1.4.1 Council Tax Fraud

This can be broken down into two main areas - Discount and Exemption fraud and Council Tax Support fraud.

Discount and Exemption Fraud

The owner, leaseholder or tenant of a property is responsible for paying Council Tax. The amount paid is based on the banding of the property. The full liability is based on two or more adults being at the property and a full bill is paid unless an exemption or discount is granted. Fraud can occur when an individual intentionally gives incorrect or misleading information in order to pay less or no council tax. Examples include someone stating that they live alone when another adult also lives there or someone claiming to be a student when they aren't or claiming Empty property exemption when the property is occupied.

Council Tax Support Fraud

The Department of Work and Pensions (DWP) is responsible for the investigation of Housing Benefit (means tested help with paying rent) fraud however Council Tax Support (means tested help with paying Council Tax) fraud is often associated with Housing Benefit fraud and it is the Council's job to investigate this. Examples of Council Tax Support fraud include making a false statement about one's household, income or capital and failing to report a change of circumstances.

1.4.2 Social Housing Fraud

The unlawful misuse of social housing can be broken down into two main areas – Housing Tenancy fraud and Right to Buy fraud.

Housing tenancy fraud includes offences such as unlawful subletting, false homeless applications, non-residency, and unauthorised tenancy succession.

Right to Buy fraud includes fraudulent applications under the right to buy scheme.

Unlawful occupation of social housing has a direct financial impact on local authorities because they are responsible for providing and paying for temporary accommodation for homeless people who could otherwise be housed in permanent social housing.

1.4.3 Housing Benefit Fraud

Housing Benefit and Council Tax Support, where they are still paid, are administered by the Council on behalf of the Government. They are paid to people who are liable to pay rent and/or Council Tax and who have a low income, whether they are working or not. Benefit fraud is defined as someone obtaining state benefit they are not entitled to or deliberately failing to report a change in their personal circumstances e.g. failure to disclose financial assets and/or changes to employment or individual(s) residing at a property.

Since the introduction of Universal Credit in 2013, to help with housing costs, the majority of eligible residents receive Universal Credit payments from the DWP rather than Housing Benefit from their local authority, with most people of working age expected to have been migrated to Universal Credit by the end of 2024.

For some claimants, however, Housing Benefit can still be claimed from the local authority. This includes people on low incomes who are pensioners (both members of a couple must be pensioners), live in supported (specified) accommodation, or are in receipt of a severe disability premium (and who are not claiming Universal Credit).

At the same time, Council Tax Benefit also ceased to exist and was replaced by Local Council Tax Support.

DWP have the responsibility of investigating all HB fraud and will work jointly with local authorities where Local Council Tax Support is also claimed. Although councils are no longer responsible for the investigation of this fraud, as administrators of this benefit there is a responsibility to try to prevent fraud and to notify the Department of Work and Pensions (DWP) of any suspected fraudulent activity including false applications and failures to declare changes in circumstances.

Discretionary Housing Payment (DHP) is a discretionary scheme where the local authority can provide extra money to help a claimant meet their housing costs such as helping with a rent shortfall, a rent deposit and rent in advance. DHPs are only for extra help towards Housing Costs and are not for help with Council Tax. When investigating a Housing Benefit fraud, if it is discovered that the customer has received DHP an attempt would be made to recover it. It is not covered in the same legislation as HB or CTR overpayments, however, and therefore cannot be included as part of any sanction.

1.4.4 National Non-Domestic Rates Fraud

National Non-Domestic Rates (NNDR), more commonly referred to as Business Rates, is paid by all businesses unless they qualify for a relief or an exemption. Examples of NNDR fraud include:

- A business falsely claiming that a property is unoccupied to obtain an empty property exemption.
- A charity or not for profit organisation registered as the occupier of a property to claim mandatory and discretionary rates relief whilst the property is actually being used by a profit-making organisation.
- A business falsely claiming insolvency with the intent to avoid paying rates.

1.4.5 The list above is not exhaustive, and the team will investigate anything that is passed to them. Conversely, there will also be some work in the areas set out above that the team may not be involved in where the issues are considered errors as opposed to fraud (i.e. there is no intention to deceive).

1.5 Sanctions

1.5.1 Investigations where fraud is proven are punishable either by issuing a formal caution or an administrative penalty (known as "ad-pen") is an agreement with the claimant that in addition to the repayment of the debt they will pay a further amount. This amount is determined by legislation and is calculated as a percentage of the debt. The level of the percentage differs depending on the period in which the overpayment occurred. Neither of these sanctions results in a criminal record. In more severe cases, a claimant will be prosecuted. Sanctions are increasingly less common since DWP took over HB investigations

– administrative penalties and cautions can still be offered but are only done so on very rare occasions. Joint cases with the DWP, on the other hand, will often result in ad-pens or prosecutions. We can offer a civil penalty in respect of council tax and this is £70 penalty added to the account following an investigation.

1.6 Fraud and Error identified during 2023/24 at Warwick District Council involving the work of the Corporate Fraud Investigation Team

- 1.6.1 The total amounts of savings for 2023/24 made by Warwick District Council that involved the work of the Corporate Fraud Investigation team amounts to £140,944.67. This includes cash and non-cash (i.e. notional) savings. Of this total, £80,544.67 represents cash savings. The remainder is non-cash savings based on predictions. The predictions usually relate to estimates, from experience, of perpetuation of the fraud if it had not been discovered.
- 1.6.2 An analysis of the savings involving the Corporate Fraud Investigation team for 2023/24 is set out as Appendix 1 to this report. Of these savings, it should be noted that a proportion will benefit other bodies. For example, the savings in respect of Council Tax will be shared with relevant precepting authorities as part of the council tax setting process. The savings do not all accrue to Warwick District Council. It should also be noted that the savings achieved cannot be attributed wholly to the work of the Corporate Fraud Investigation Team. In nearly all cases, other parties such as staff within Revenues, Benefits and Housing, have been involved in flagging the cases to the Corporate Fraud Investigation Team for review. Ultimately, most fraud and error is identified through teamwork and coordinated working across the Council as well as with other agencies such as the DWP.
- 1.6.3 An explanation of each of these types of savings together, in the case of non-cash savings, with an explanation of how they have been calculated is set out as Appendix 2.

2 Alternative Options

- 2.1 This report is for information on previous performance, so this section is not applicable.

3 Legal Implications

- 3.1 Not applicable.

4 Financial Implications

- 4.1 Not applicable.

5 Corporate Strategy

- 5.1 Warwick District Council has adopted a Corporate Strategy that sets three strategic aims for the organisation:
- Delivering valued, sustainable services.
 - Low cost, low carbon energy across the district.
 - Creating vibrant, safe, and healthy communities of the future.

The Counter Fraud Investigation Team contributes to the delivery of these strategic aims as part of the governance framework.

6 Environmental / Climate Change Implications

6.1 Not applicable.

7 Analysis of the Effects on Equality

7.1 Counter fraud activities will comply with the Council's equality obligations.

8 Data Protection

8.1 Counter fraud activities will comply with the Council's data protection objectives.

9 Health and Wellbeing

9.1 Counter fraud activities will comply with the Council's health and wellbeing objectives.

10 Risk Assessment

10.1 There is a financial risk to the Council in making payments to people that are not entitled to receive them. There are health and safety risks to staff associated with investigating suspicious claims. There are also reputational risks to the Council from such activities.

11 Consultation

11.1 Please refer to 'header page' of this report.

Background papers:

Not applicable.

Supporting documents:

Not applicable.