

Agenda Item No 11
Audit and Standards Committee
25 September 2023

Title: Corporate Fraud Investigation Performance Report 2022/23
Lead Officer: Richard Barr
Portfolio Holder: Councillor Chilvers
Wards of the District directly affected: None directly impacted

Approvals required	Date	Name
Portfolio Holder	12/09/23	Councillor Chilvers
Finance	12/09/23	Andrew Rollins
Legal Services	Not applicable	
Chief Executive	12/09/23	Chris Elliott
Director of Climate Change	Not applicable	
Head of Service(s)	12/09/23	Andrew Rollins
Section 151 Officer	12/09/23	Andrew Rollins
Monitoring Officer	12/09/23	Graham Leach
Senior Leadership Team	12/09/23	Various
Final decision by this Committee or rec to another Cttee / Council?	Yes / No – Final Decision by this Committee. Recommendation to: Cabinet / Council Committee	
Contrary to Policy / Budget framework?	No/Yes	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	No/Yes, Paragraphs:	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	No/Yes, Forward Plan item – scheduled for (date)	
Accessibility Checked?	Yes/No	

Summary

The Report provides details of the performance by the Corporate Fraud Investigation team for 2022/23.

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.

2 Background/Information

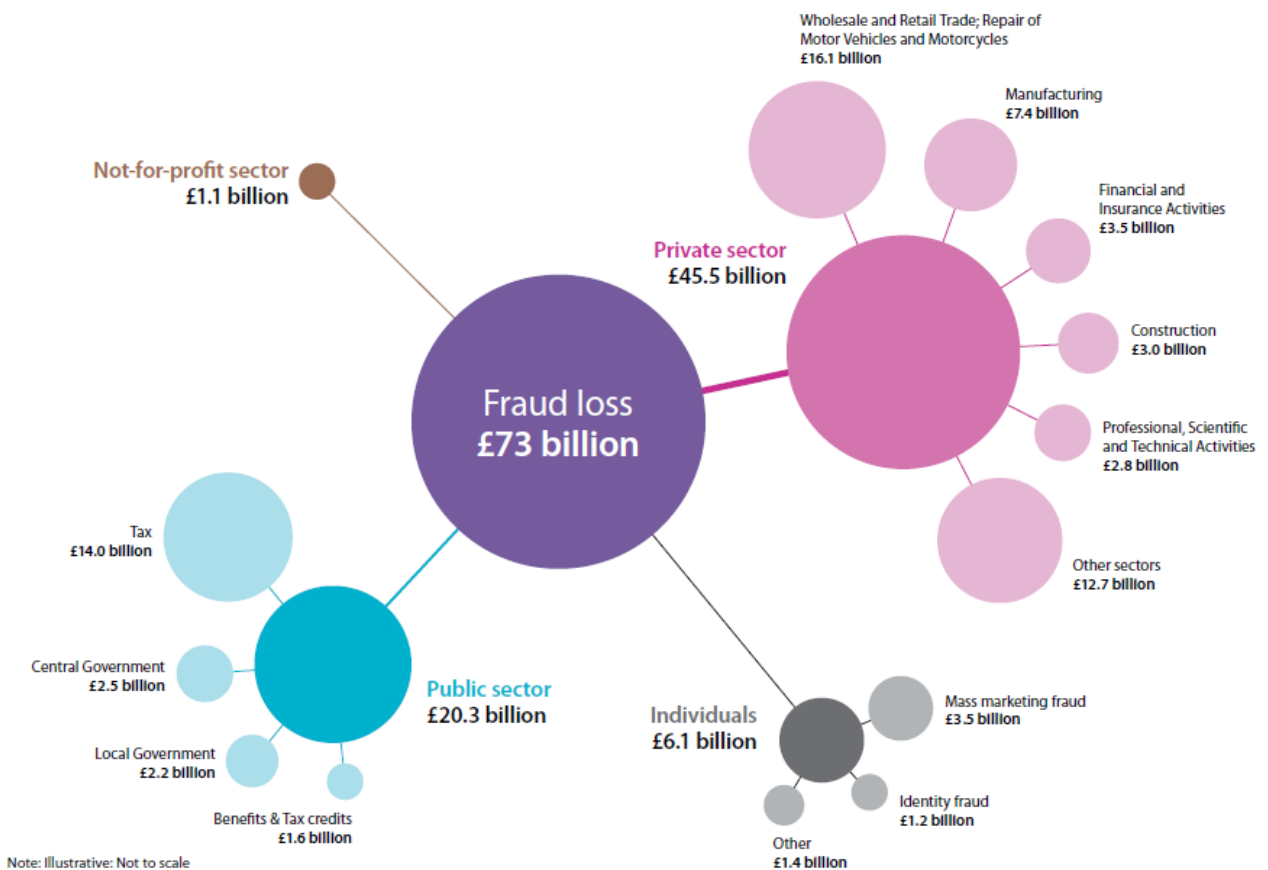
1.1 Definitions, types, and scale of fraud

- 1.1.1 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.

- 1.1.2 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.

- 1.1.3 In 2012 the government set up a body to examine fraud in local government. It culminated in the production of a paper entitled "Fighting Fraud Locally: The Local Government Strategy". The diagram below, contained in that paper, depicts the estimate of loss to fraud in the UK across all sectors:



To comply with SCULPT readability requirements, the key points from this diagram are set out below.

1.1.4 As at 2012, of the total sum estimated to be lost each year to fraud, around 30 per cent occurs in the public sector, with estimated losses of around £20 billion a year. Although the majority of this loss is the result of fraud against the tax system, about £6 billion is estimated to be in areas such as payroll, procurement, grants, and pensions. Fraud in local government accounts for around 11% of total public sector fraud, costing taxpayers about £2.2 billion a year. The table below provides a breakdown of this figure.

Fraud Type	Fraud Loss
Housing Tenancy fraud	£900 million
Procurement fraud	£890 million
Payroll fraud	£153 million
Council Tax fraud	£131 million
Grant fraud	£41 million
Pension fraud	£5.9 million

1.1.5 Estimates of the value of fraud perpetrated in the UK vary from year to year but in recent years have been heading towards £100 billion annually. The estimated annual loss to fraud in councils continues to exceed £2 billion.

1.2 Arrangements at WDC

- 1.2.1 In February 2015, the Housing Benefit fraud investigation function at Warwick District Council transferred, like others, to the Department for Work and Pensions under the auspices of the Single Fraud Investigation Service (SFIS).
- 1.2.2 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 including Oxfordshire County Council. 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'.
- 1.2.3 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.
- 1.2.4 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.
- 1.2.5 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.
- 1.2.6 In addition to the normal matches, NFI provided an additional single person discount (SPD) report that matches data to other external sources such as blue badge and concessionary travel data. However, due to the timing of when data is collected and the length of time before the matches were received, a view was taken that only the high-risk cases would be checked and the team would undertake a separate SPD review. The Team has access to a data matching system and, using this technology to review single person discount cases, will ensure that any data submitted is matched and returned daily.
- 1.2.7 As part of the contract, the team from Oxford also provides fraud awareness training sessions to staff across the Council, and this has now been incorporated into the corporate induction training sessions. More recently, as part of their fraud prevention work, the team have been providing additional assistance to staff in the housing advice team, to assist with their investigative interviewing skills when interviewing customers who present as homeless.

Further guidance has also been provided to help them interpret information obtained through the national anti-fraud network.

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

1.3.1 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.

1.3.2 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/acquire schemes.

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.

1.3.3 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. 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). (It only applies to rent; it is not available for mortgage repayments.)

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.

1.3.4 **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.

NNDR frauds are investigated by the Fraud team. However, no referrals were received during the year.

2 Sanctions

- 2.1 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 but due to COVID-19 the Revenues team has not been issuing these so as not to put anyone under added financial pressure.

3 Fraud and Error identified during 2022/23 at Warwick District Council involving the work of the Corporate Fraud Investigation Team

- 3.1 The total amounts of savings for 2022/23 made by Warwick District Council that involved the work of the Corporate Fraud Investigation team amounts to £457,016.56. This includes cash and non-cash (i.e. notional) savings. Of this total, £55,727.75 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. Of this total, the majority - £348,800 - is based on the identification of fraudulent Right-to-Buys.
- 3.2 An analysis of the savings involving the Corporate Fraud Investigation team for 2022/23 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 the Council's Visiting Team and other staff within Revenues and Benefits, as well as staff in Housing, have been involved, often taking the primary role with the Corporate Fraud Investigation Team having a subsidiary role. 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.
- 3.3 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.

3 Alternative Options

- 3.1 The report is not based on 'project appraisal' so this section is not applicable.

4 Legal Implications

- 4.1 Not applicable.

5 Financial Implications

- 5.1 Not applicable.

6 Business Strategy

6.1 Warwick District Council has adopted a Business Strategy that sets out key areas for service delivery. Each proposed decision should set out how the report contributes to the delivery of these strategic aims. If it does not contribute to these aims or has a negative effect on them the report should explain why that is the case.

6.1.1 External Impacts

People - Health, Homes, Communities

Services - Green, Clean, Safe

Money- Infrastructure, Enterprise, Employment

Although there are no direct policy implications, counter fraud measures are an essential part of corporate governance and will be a major factor in shaping the Policy Framework and Council policies.

6.1.2 Internal Impacts

People - Effective Staff

Services - Maintain or Improve Services

Money - Firm Financial Footing over the Longer Term

Although there are no direct policy implications, counter fraud measures are an essential part of corporate governance and will be a major factor in shaping the Policy Framework and Council policies.

7 Environmental/Climate Change Implications

7.1 Counter fraud activities will comply with the Council's environmental and climate emergency objectives.

8 Analysis of the Effects on Equality

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

9 Data Protection

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

10 Health and Wellbeing

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

11 Risk Assessment

11.1 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. These are detailed in the service's risk register, assessed, and managed through various mitigations and controls.

12 Consultation

12.1 No external consultation required.

Background papers:

All Papers referred to in this report are published documents.

Supporting documents:

Fraud statistics.