

Agenda Item 12

Chief Executive

February 2010

TC



Counter Fraud Arrangements at East Devon District Council

Summary

Our external auditors have requested that the Council review its counter fraud arrangements. Giving assurance on the adequacy of the Council's counter/anti-fraud arrangements falls within the remit of Audit & Governance. There are various tools available for the Council to assess its current counter fraud arrangements and to identify any gaps.

Currently the Council takes part in the NFI data matching exercise (a bi-annual activity), and has a dedicated counter-fraud unit dealing with housing benefit fraud. Internal Audit will conduct investigations into allegations against staff and/or members of the public (in the latter case with assistance from the Police). The Council's Revenues team have various methods of identifying SPD (single person discount) fraudsters and these are detailed in the main body of the report.

The Council is actively pursuing ways of preventing and detecting fraud, but it is not systematic, this report suggests improvements for consideration, but Members will need to assess the costs of implementation.

Recommendation

To approve the work program and action plan, which ultimately will help identify the gaps in the Council's anti-fraud arrangements and will highlight what the Council needs to put into place to achieve its commitment to 'Zero' tolerance against fraud.

a) Reasons for Recommendation

To ensure that the Council makes improvements in its counter fraud arrangements and is committed to 'Zero' tolerance of fraud. This in turn would raise the profile of our counter fraud arrangements.

a) Alternative Options

The Council could continue with its present arrangements and not look for ways of improving but to do so would mean that the potential threat of fraud and/or irregularity will remain unchallenged.

b) Risk Considerations

The Council has a responsibility to protect the public purse and to put controls and counter fraud strategies in place.

The Strategic (Corporate) Risks are:

001-RK-0066 – Critical data used by computer systems is permanently lost, damaged or stolen

The Operational (Service) Risks are:

Aud-RK-0081 – Fraud, Theft and/or irregularity of financial resources

Aud-RK-0082 – Fraud, Theft and/or irregularity of physical resources

c) **Policy and Budgetary Considerations**

tba.

d) **Date for Review of Decision**

tba

1 Introduction

Apart from the obvious areas of fraud, the Audit Commission, in its publication "Protecting the Public Purse" has identified other significant areas where fraud is prevalent, including tenancy fraud and recruitment fraud on a national scale.

During October, the Audit Commissions 'Counter Fraud Checklist' was presented to SMT (Directors and Heads of Service), and various responses to that document were received.

This report highlights the significant areas of improvement and our suggested recommendations for improving our counter-fraud arrangements. Discussions have taken place with all Heads of Service; they have considered and completed the Audit Commission's – "Checklist". Account has been taken of the Head of Housing's Report to the Housing Review Board entitled "Tenancy Fraud Initiative" This Report has been consulted upon by Heads of Service and Director and the Chief Executive has reviewed it.

2 Background and Case Studies

The Audit Commission define fraud as an intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss.

Housing Tenancy Fraud

There are approximately 3.8 million social housing properties in England. Social housing is fundamental to the quality of life of those families and individuals who cannot access suitable accommodation from the private sector. The illegal occupation of social housing can adversely affect the quality of life of thousands of people each year and restrict the capacity of social housing providers.

This is a serious problem; housing waiting lists have increased by over 50% in the last six years and the National Housing Federation predicts that the number of people waiting for social housing may reach 2 million by 2011.

Housing tenancy fraud is the use of social housing by someone not entitled to occupy that home. It includes:

- When people submit false housing applications,
- Tenancy succession fraud, where the property is no longer occupied by the original tenant, and
- The illegal sub-letting of a property for profit.

Case Study

A council housed a family, who were escaping civil war in their home country. When the war ended, the family moved back to their home country where the tenant became the director of a medical centre. Instead of relinquishing his council-owned property in Britain back to the council he sub-let it for profit. The council were forced to take legal action, and the court granted the council a possession order for the property.

Case Study

Following information from a London borough that it had initiated proceedings against a person who had been fraudulently claiming housing benefit, another London borough discovered that the same person was also its tenant and in receipt of housing and council tax benefit. The

investigation further revealed that the person owned a £3.5 million property elsewhere. The boroughs regained possession of their properties and are prosecuting the individual.

Audit Commission Guide to Best Practice

Our Council should work with key partners and apply good practice to reduce the cost and harm caused by tenancy fraud. In particular we should:

- a) Instill a clear commitment to prevent and detect tenancy fraud
- b) Recognize the full cost and harm caused by tenancy fraud
- c) Raise awareness of fraud to staff and members
- d) Use campaigns to raise public awareness and encourage residents to report suspected illegal occupancy
- e) Carry out regular housing tenancy audits to confirm that the correct tenant is resident
- f) Use specialist counter-fraud staff to support housing officers
- g) Effectively use NFI results and other data matching
- h) Recognise indicators that may highlight the likelihood of tenancy fraud, for example, a tenant's failure to provide access for gas inspections

Single Person Discount Fraud

A single person discount can be claimed by householders where there are no other residents aged 18 or over living at an address. The discount amounts to a 25% reduction in their council tax bill. Nationally 35% of households receive this discount. Local council taxpayers meet the cost of these discounts. The Audit Commission estimate that undetected single person discount frauds could be costing taxpayers £90M each year. One result of this type of fraud is that council tax levels are higher than they need to be.

Case Study

A council, using data matching identified 657 single person discount claimants in one year who were not entitled to claim the discount. The amount wrongly claimed totaled £235,000. In one case, a resident had been claiming the discount since 2003 and was required to repay £2,460.

Audit Commission Guide to Best Practice

Our Council should use targeted resources to prevent and detect single person discount fraud. In particular we should:

- a) Participate in the National NFI exercise
- b) Undertake annual reviews and focus on high risk single person discount fraud cases
- c) Consider partnership working between county and other district councils
- d) Use campaigns to raise public awareness
- e) Conduct verification checks when applications for single person discounts are made

Recruitment Fraud

Nationally councils employ more than two million permanent staff and many thousands of temporary and agency workers at any one time. The importance of verifying the identity, qualifications, employment and, where appropriate, criminal history of those already employed or applying for posts has been shown to be a key defense against fraud.

Case Study

A council offered a permanent post to an individual following a short period of employment as a contractor. There were some concerns over project finance and suspicion fell on the individual. Investigators found that when the council had appointed him, he had used a false identity and was in fact a convicted fraudster. Within weeks of his permanent employment, he had set up a fake company and paid himself over £2M for work, much of which was never carried out. The council pursued recovery of the stolen money and costs through the civil courts.

Case Study

A council became suspicious about the activity of an employee after the birth certificated stated that he was born in 1977 at a hospital that was not build until 1986. The Police were informed and a search warrant was executed at the employees home and forged identity documents were recovered as well as numerous items of council property.

Audit Commission Guide to Best Practice

Our Council should satisfy itself that their processes and procedures for recruiting permanent and temporary staff accord with good practice and are operating as intended. Failing to undertake effective pre-employment screening may expose the Council to the risk of:

- Abuse of payment processes, employee expenses and re-imbusement processes
- Theft of customer information
- Theft of intellectual property rights
- Us of the Council premises or equipment to conduct unauthorized or illegal activities
- Theft of assets
- Appointment of other dishonest people.

Common types of recruitment fraud are:

- Use of a false identity
- Use of a false immigration status
- Provides false education and/or professional qualifications
- Uses false references
- Conceals employment history
- Conceals unspent criminal convictions

Pre-employment screening is laid down by the Fraud Advisory Panel, and their guidance is:

- a) Ensure that our job application pack includes a statement informing those applying for work at East Devon will be subject to pre-employment screening, and insist that they sign a full consent form and data protection statement to allow us to do this.
- b) Ensure that our job application pack includes a requirement for all prospective employees to sign a declaration to confirm that the information provided on the employment application form is correct and that they understand that any material falsehoods may constitute misconduct and result in the withdrawal of any offer of employment.
- c) Maintain accurate records to demonstrate that appropriate checks have been conducted.

What can the Council do:

- a) Check the job application form to ensure that it is accurate and complete.
- b) Ensure that our job application pack includes a requirement for all prospective employees to sign a declaration to confirm that the information provided on the employment application for them is correct and that they understand that any material falsehoods may constitute misconduct and result in the withdrawal of any offer of employment.
- c) Maintain accurate records to demonstrate that appropriate checks have been conducted.
- d) Monitor relevant legislation and the legal requirements to check certain information (such as an applicant's right to work in the UK)
- e) Establish clear policies to assess the acceptability of pre-employment screening results.
- f) Introduce a Verification Process, preferably using online checking sources or by contacting relevant organizations. The Verification Process should be along the lines of:
 - i. Identity (full name and date of birth)
An original government-issued identification document such as a current passport, photographic driving license, birth certificate.
 - ii. Residential Address
Conduct an address verification search online, request bank statement/utility bills
 - iii. Education and professional qualifications

- iv. Work history and references
Contact awarding body directly to obtain verification of the degree or qualification, dates of attendance and grades
Contact previous employments to confirm length of service and duties. Request P45 or P60 from previous employments to clarify basic salary. References should be requested for previous employers and employment gaps greater than three months should be checked.
- v. Right to work in the UK
Visit the UK Border Agency website for information on how to check that an employee is entitled to work in the UK.
- vi. Criminal history
Can be obtained from the Criminal Records Bureau.

3 Conclusions

My findings are set out below:

3.1 Housing: Housing Needs

There are good opportunities to improve our counter fraud arrangements and I have looked at various best practice guides and have contacted London Borough of Croydon, the Audit Commission and our external auditors Grant Thornton for help with some ideas that I have and other best practice/positive practice guidance they can give.

Recommendations for Improvement:

3.1.1 Compile a database of tenant photographs

The on-line photo gallery would be similar to the one held by the Council for Concessionary Travel passes.

Where this has been adopted by other authorities, images have been stored on-line or where this is not possible, a dotted line box appears on the application form for affixing passport sized photographs; these organisations have adopted procedures that prohibit the processing of the application unless photographs are provided. (Similar to the requirement for passport sized photographs when applying for a driving license).

Internal Audit recommend an on-line option as a secure and permanent means of tenant verification.

This recommendation is endorsed by the Head of Housing and appears in his report to the Housing Review Board (date 14th January 2010) at paragraph 2.4 and 2.5.

3.1.2 Update our evidence capturing procedure to bring into line with other authorities.

At least one primary piece of evidence supported by two secondary pieces of evidence should be provided for identification and verification checks to take place. Primary being driving licence or passport, and secondary being benefit documentation and/or utility bills or similar. This evidence should be photocopied and placed into the file.

This recommendation is partly endorsed by the Head of Housing in his report to the Housing Review Board (date as above) at paragraph at 2.2 where he says "A series of identification and verification checks should be undertaken". My recommendation goes further in that the 'evidence' should be photocopied and placed on the file.

3.1.3 Revise and extend the envisaged use of 'Experian'

Consider using Experian on all initial applications for housing, whether temporary, rent deposit or permanent prior to tenancy being signed up.

Utilise the Experian facility to its fullest extent and in addition to the basic residence check carry out Level 3 checks to include address links, aliases and changes in name/associations with other persons.

3.1.4 Improve verification of evidence offered by applicant

Currently there is limited checking to verify the details entered on the application form, especially with regards other properties owned by an applicant, (including other local authority tenancies granted to them by other authorities/RSLs and/or whether they are associated with another person who may be either a tenant or homeowner.

There is limited checking of numbers of children per applicant, with the risk that a tenancy is granted to an applicant for a home larger than is necessary.

Again, utilizing the Experian facility to its fullest extent may help assist in the verification of evidence offered by the applicant.

3.1.5 Utilize staff employed in other sections of the Council

An opportunity exists to use Council staff in other sections of the Council to verify whether a Council property is occupied by the person who has signed the tenancy agreement.

The Council could widen the role of roving officers (HB, housing, revenue, environmental health visiting officers) to include a process of verifying the identity of the person opening the door of a Council owned property. This could be either via paper file and photograph of tenant signing the housing application or a hand-held electronic device with tenant details and photograph.

Response from Audit Commission – November 2009

We have identified some good practice in inspections of London landlords regarding tackling tenancy fraud. These were at inspections in Enfield, Hackney, Barking and Dagenham, Brent and Islington. Apart from Barking and Dagenham, these are all ALMOs¹. Brent in fact has used photographs of tenants to help with the detection of tenancy fraud.

3.2 Finance

Council Tax “Single Person Discount” and NNDR (Revenues)

These areas already have staff engaged in the verification of SPD’s CT disregards and full or partial NNDR grants. They also devote resources to the NFI exercise bi-annually when necessary.

Recommendations for Improvement:

3.2.1 Telephone canvassing – out of hours. This is an activity that can be done in-house using telephone numbers provided by Experian to verify SPD’s and other CT discounts – the only cost will be the payment of overtime. Could pilot and subject the results to a cost/benefit analysis.

3.2.2 Revised system of checks/confirmation on rural, charitable and other rate reliefs.

Legislation has changed the frequency/need for positive confirmation from ratepayers. There is a need to draw up revised system of checks/confirmation on rural, charitable other rate relief grants in consultation with Internal Audit.

3.2.3 Raise awareness by using the Local Press

¹ Arms Length Management Organisation

Liaise with Communication Officer regarding possible advertisement in the local press, to include our Fair Processing Notice and our commitment to 'Zero' tolerance on fraud.

3.3 HR

Recruitment

3.3.1 Employment Screening – residential address.

As the BPSS² requires that the address of prospective employees should be verified we recommend that addresses are verified by verification search online or by requesting bank statement/utility bills – these documents should be photocopied and placed on the HR file.

The Council's Recruitment and Selection Checklist for Managers should include a requirement to do this.

3.3.2 Education and professional qualifications – verification of degree or professional qualifications

Contact awarding body to obtain verification of the degree or qualification, dates of attendance and grades.

The Council's Recruitment and Selection Checklist for Managers should include a requirement to do this and to reconcile the results to the completed Job Application Form.

3.3.3 Work history and references

The Council's Recruitment and Selection Checklist for Managers should advise that references are requested from all previous employers.

The Council's Recruitment and Selection Checklist for Managers should advise that Managers should check reasons for employment gaps greater than three months.

3.3.4 HR Responsibilities

Make clear within policies who in the Council is responsible for verifying a prospective employees 'right to work in the UK', and ensure policies are consistent.

Make clear within policies who in the Council is responsible for carrying out CRB checks and ensure policies are consistent.

3.3.5 Criminal History

As the BPSS requires that the criminal history of prospective employees should be verified we recommend that prospective employees are asked to disclose their criminal history.

It may be that the CRB Application Form can be used for this purpose and only submitted for checking if the prospective employee is to work with children and/or vulnerable groups.

3.3.6 Internal Audit Scope

Internal Audit has not in the past looked at the compliance with the Council's various Employment Screening Policies, this requirement has been inserted into the Audit Scoping Documents for each area of audit work.

3.4 Counter-Fraud Generally:

² Baseline Personnel Security Standard

The Council is in a good position to improve its counter-fraud arrangements and these can be supplemented by the following recommendations for improvement.

Recommendations for Improvement:

3.4.1 Ad-Hoc Data Matching

Expand the Council's data matching exercise to include in-house datasets produced by corporate systems within the Council on a bi-annual basis to fall outside the NFI bi-annual exercise. For example, when not engaged in the NFI, which only matches certain datasets, conduct our own data matching exercise on datasets already being produced by the Council.

Utilizing additional datasets will help to identify fraudsters both internally and externally.

In addition to the datasets used in the NFI exercise, the Council's own exercise could match datasets such as parking fines, unpaid debts, building control, planning and housing applications, licensing applications, grant applications, noise / nuisance complaints and many more.

This could result in the Council discovering fraudulent claims for single person discounts or other discounts or CT disregards (disabled/student etc), fraudulent claims for rural, charitable or small business NNDR grants and tenancy/other fraud.

As an internal fraud exercise this would greatly contribute to our counter-fraud arrangements. As with the NFI exercise, overall control and co-ordination would remain with Internal Audit & Governance, but results would be rolled out to individual service areas to investigate and report back.

On preliminary enquiry there is no objection from the Data Protection Officer, however, the Council does need to ensure that its 'Fair Processing Notice' has been issued on all documentation containing sensitive information. Each Head of Service has been notified and asked to confirm that this is the case.

On enquiry with ICT the necessary software could be written, but this may need Project Board approval, depending upon the time/cost.

3.4.2 Raising Awareness

Currently IA has been invited to managers' team meetings, to talk about the Council's various governance policies and to also explain a little about Internal Audit and Governance and what it means/what it does, highlighted case studies and give examples of various frauds within local government.

Recommendation for Improvement:

Continue with the 15 minute 'Ethical' bulletins for team meetings. Make these annual rolling visits to ensure new staff are aware and to remind existing staff of policy and procedures and to keep them 'visible'.

3.4.3 Review Existing Policies

Revise and amalgamate the Council's existing ethical policies (anti-fraud, theft, corruption, whistle blowing, money laundering) and rename 'Governance Policy' ensuring the document correctly reflects 'crime' in its widest sense.

Upload the revised 'Governance Polic(ies)' to staff via the Council's network "net consent" software.

3.4.4 Joint Training Sessions

Convene joint training sessions for elected members hosted by Internal Audit and Benefit Fraud.

3.4.5 **Offer from London Borough of Croydon**

A fraud investigation officer from the London Borough of Croydon has offered to come and speak to our SMT/Members about their counter fraud arrangements and what they do to tackle it – however this is likely to have cost implications.

3.5 **‘Other’ Council Recommendations**

Whilst conducting the field work for this exercise, I did come across other areas of improvement. These exist outside the main areas of fraud highlighted by the Audit Commission, but are nonetheless important and should be addressed at some point.

Housing Management

Housing Management involves the engagement of contractors to carry out planned and ad-hoc work to the Council’s housing stock.

Recommendation for Improvement:

Our two partners ‘Connaught’ and ‘Skinner’ have been advised that all larger purchases are to be procured from “Advantage South West” (procurement consortium), where the Council has managed to negotiate prices on larger items such as kitchens, bathrooms, gas heating, windows and doors, electrical heating and new technology.

Governance of Partnerships

The Council accepts that there is the possibility of landowners, developers, consultants and the various advisors colluding in order to defraud the Council. We do however insist on relevant ‘clawback’ arrangements on our Grant Agreements with the Homes & Communities Agency, but to date we have never imposed this.

The Council does not routinely check out its partners, or any of the people it is dealing with (ie developers, consultants etc) to establish who they are (ie the name(s) behind the company), and their other directorships or interests.

Recommendations for Improvement:

Identity and company checking is a basic ‘corporate governance’ standard which should be implemented to support our governance arrangements. Both Experian and Companies House could be utilized for this purpose.

Similarly, we do not independently check out the financial, economic or technical abilities of our partners, developers, consultants etc, and in cases where this Council is not the project lead will rely on others to make this check. This is acceptable, but some evidence of the check should be made available to the Council.

Housing Business Unit

Before processing RTB³ properties, the Council has them independently valued by ‘Meadows’ in Exmouth (Meadows have been selected following a tender exercise). There is the possibility of collusion between the RTB officer and the tenant. There is a lack of segregation of duties, and the RTB process is not generally known by other members of the team.

Recommendation for Improvement:

The RTB officer role should be documented with adequate supporting procedures. Paperwork should be reviewed by an independent officer before sign off and/or someone other than the RTB officer should be involved in the process (perhaps a different officer handling the valuation with the estate agent), or (a different officer compiling the final computations on value/discount/final purchase price).

³ Right to Buy

Debtors

Current weakness is that debtors' staff cannot access Experian until recovery stage for a debt, and a lot of work by debtors staff will have already been done by this point.

Recommendation for Improvement:

Negotiations are underway to ensure access to Experian by debtors staff in order to aid the recovery of debt to the Council.

Planning & Building Control Services

Apart from a risk of collusion or favouring of contractors with regards application of fees (new fee charging arrangements being introduced nationally), this is not a general area of concern.

Recommendation for Improvement:

Other than a willingness to participate in the data matching exercise (page 5), there are no recommendations for improvement.

Environmental Health - Grants

Introduce an improved grant processing validation form and introduce a check digit to verify invoices received from the applicant. This recommendation will be raised during our forthcoming audit of Environmental Health Grants.

3.6 Housing Needs' Allocation of Garages

In September 2009 a message was left on the Council's Fraudline (confidential telephone answerphone), alleging that individuals had applied to the Council for several garages and had been successful. The caller alleged that the garages are being sub-let at a far greater rental to that being paid to the Council.

Internal Audit reviewed the list of garages from Housing Rental, and can confirm that a significant number of people have been allocated more than one garage. Internal Audit have not confirmed whether or not these people are Council tenants.

The response from the Housing Manager was that there had been no review of tenancies relating to garages for some time and neither had there been a review of garage 'contents'.

Recommendation:

The Housing Service together with Internal Audit will conduct a garage tenancy verification exercise together with a sample check of garage use.

The 2010 IA plan includes time within both Housing Needs and Housing Management, some of which could be used for this work. The IA manager will ensure the plan is updated.

Legal Implications

Fraud prevention and detection raises a range of legal issues referred to in the body of the report, including data sharing. Revised government guidance in this area has helped to clarify what data sharing is permitted and the Data Protection Officer/legal team will give further advice as is necessary in this area.

The Human Rights Act is unlikely to be contravened by these proposals (even if a human right is engaged) as the policy is intended to act in a proportionate manner. For example, although there is the right to respect for private and family life, home and correspondence, it may be interfered with by a public authority in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Financial Implications

There are a number of recommendations in the report which would appear to have financial costs associated to them. No costings are detailed in the report or an indication whether budget provision exists for their implementation. If recommendations are accepted and once costed these recommendations have budgetary implications then the Executive Board will have to approve supplementary estimates in order to implement.

Consultation on Reports to the Executive

Background Papers

Audit Commission "Protecting the Public Purse"
CIPFA BGF Red Book 2 – Managing the risk of fraud
Completed Counter-Fraud Checklists
Investigation Working Papers