

AGENDA ITEM NO 13

BRISTOL CITY COUNCIL AUDIT COMMITTEE 26th June 2015

Report of: Chief Internal Auditor

Title: Benefit Fraud Investigation Annual Report 2014-15

Ward: City Wide

Officer presenting report: Alison Mullis/Melanie Henchy-McCarthy, Chief Internal Auditor (J/S)

Contact telephone number: 0117 92 22448/20063

Recommendation

The Audit Committee is recommended to accept the Annual Report and note the arrangements for investigation of benefit fraud and council tax reduction fraud going forward.

Summary

The report is the final report concerning the work of the Council's dedicated Benefit Fraud Investigation Team and provides the Committee with details of how they will gain assurance on the effectiveness of response to benefit fraud under the new arrangements with the Department for Work and Pension's Single Fraud Investigation Service.

Significant Issues

- Team Performance – Paragraph 2 Activity and Sanction Reports – Paragraph 2
- Arrangements going forward – Paragraph 3

Policy

This report is submitted in accordance with the Audit Committee's Terms of Reference.

Consultation

Internal – None Necessary

External – None Necessary

1. Background

- 1.1 Until the 31st March 2015, the Council employed its own Benefit Fraud Investigation Team (BFIT) to investigate, sanction and prosecute housing and other social security benefit fraud - one of the highest fraud risk areas faced by Local Authorities.
- 1.2 The Council has been well served by the team - a highly regarded, professional and successful unit prosecuting or sanctioning over 1500 individuals over the last 10 years following criminal investigations undertaken by them. The team worked continuously to deter benefit fraudsters by ensuring that this type of fraud was identified and stopped and to ensure offenders do not gain from defrauding the Council or the welfare system.
- 1.3 Welfare reform has seen the phased transfer of all housing benefit fraud investigation to the Department for Work and Pensions' Single Fraud Investigation Team. As part of that phased transfer, Bristol's Benefit Fraud Investigation Team transferred to the DWP effective from 1st April 2015.

2. Performance Information 2014 - 15

- 2.1 During 2014–15, BFIT investigated 745 cases and conducted 126 interviews under caution with suspected benefit fraudsters.
- 2.2 As a result of these and other investigations, 130 individuals have been prosecuted or sanctioned (against a target of 119 sanctions). Sentences and penalties have varied but in summary over the last year punishments have included:-
 - Prison sentences for 3 individuals;
 - Suspended prison sentences for 13 individuals who narrowly avoided imprisonment
 - Curfew orders being placed on 14 people severely restricting their movements
 - 550 days of work in the community for 36 individuals for their benefit offences as well as the imposition of various fines.
- 2.3 The Team has identified £1,762K in benefits being incorrectly claimed. Further subsidy payments of £705K can be achieved if these amounts are collected providing opportunities for the Council to earn additional revenue through taking a robust approach to the recovery of these debts and pursuing settlement vigorously.
- 2.4 A further £440K in fraudulent claims has also been stopped as a result of the counter fraud work carried out by BFIT representing another saving to the public purse. Additionally, other direct financial benefits of the Teams work include:-
 - £26.6K in court costs awarded
 - £8.5K in compensation orders awarded

- £14.6K in Administrative Penalty fines imposed on claimants
- £82.8K of Proceeds of Crime Awards (POCA) repaid as a result of 4 financial investigations conducted into benefit fraud. £33.1K in subsidy payments will be achieved having successfully recovered this overpayment in full via POCA.

2.5 **Appendix 1** – Sanction Statistics – demonstrates the team’s performance over time and demonstrates the effect on performance of staff reductions experienced by the team over the last 2 to 3 years. However, whilst staff numbers have reduced, due to grant reductions and previous uncertainty regarding the transfer to the DWP, the teams have continued to focus their resource on more complex and high value cases and have consistently met prosecution targets maximising the deterrent effect of the team’s work.

2.6 Fraud referrals continued to be high during the year and were received from a variety of different sources including the Benefits Service, pro-active data matching initiatives, calls to the Hotline and a program of proactive audits. **Appendix 2** provides details and shows the number of cases referred and investigated together with the outcomes from those investigations.

2.7 The analysis shows that the largest numbers of referrals continued to come from the Benefit Service. The majority of allegations concern people working whilst claiming Benefit. These also have been the most successful investigations. However this is closely followed by undeclared living together where there is a partner in the household who hasn’t been advised.

3. **Benefit Fraud Investigation Going Forward.**

3.1 In October 2010 the Government announced a series of strategies to tackle fraud and error in the welfare system, one of which was the establishment of SFIS (a Single Fraud Investigation Service) to investigate the range of social security benefits administered by the Department for Work and Pensions (DWP), Local Authorities (LA s) and Her Majesties Revenue and Customs (HMRC). Nationally, a programme of local authority transfer to SFIS is progressing with a completion date of March 2016. For Bristol, the responsibility for the investigation and sanction of housing benefit fraud transferred with effect from 1st April 2015. All but two of the BFIT staff also joined the DWP in a ‘tupe like’ transfer.

3.2 Key impacts for the Council with the new arrangements include:

- Whilst the Council continues to administer HB, nationally agreed working protocols require that the Council put in place arrangements for information exchange with SFIS to enable them to investigate and sanction HB fraud on the Council’s behalf. Two ways information exchange is important, particularly where SFIS work identifies any issues affecting ongoing benefit entitlement or overpayment which requires recovery.
- The provision of a resource to respond to the fraud risk in respect of Council Tax Reduction (CTR) entitlement. This is not a social security

benefit and therefore the responsibility to identify and stop this type of fraud remains with the Council. This work was previously undertaken by BFIT as CTR fraud is the same in nature as HB fraud and cases of CTR fraud were generally investigated alongside the HB fraud.

- The need to resource other work completed by BFIT on behalf of the Council that has not transferred to the DWP. This includes mandatory data matching exercises relating to Housing Benefit fraud (such as the National Fraud Initiative), other proactive fraud work to identify benefit fraud and finalising prosecutions by the Council for those cases where legal proceedings had already been instigated before the transfer date.
- The loss of key skills and capacity of a professional investigation resource from the Council.

3.3 To address these impacts, two members of the BFIT have remained employed by the Council and have joined Internal Audit's Corporate Investigations Team. This provides the Audit Team with both capacity and relevant expertise to fill the gaps left by the transfer of BFIT to the DWP and has been achieved at neutral cost to the Council. Benefit subsidy reductions resulting from the transfer of responsibility to the DWP were less than the amount previously allocated from the subsidy grant to cover the costs of the BFIT team. It is also anticipated that the Council will receive 'new burdens' funding as part of its benefit grant which should further offset the cost of responding to information requested by the DWP. The amount of this funding is not yet known but a decision is anticipated in June 2015.

3.4 Data-sharing arrangements are in place with the local SFIS office to ensure there is effective information flow to and from SFIS to:

- Refer cases for investigation
- Ensure efficient provision of information required by SFIS to take forward a timely benefit investigation
- Ensure the outcome of the cases referred are recorded and passed back to the benefit service for any necessary action in relation to the benefit claim or overpayment recovery.

3.5 The Corporate Investigations Team in Internal Audit will monitor adherence to the data sharing agreements and raise any concerns via regular meetings with the local SFIS office management. Early indications suggest that the information exchange is working well with only a few minor teething troubles identified so far. Whilst information requests have been much lower than expected, it is anticipated that these will increase as arrangements bed in at SFIS.

3.6 The Corporate Investigations Team will monitor the outcome of cases referred to SFIS to:

- ensure any trends are identified for fraud control reviews necessary in

the housing benefits service

- Gauge the effectiveness of SFIS in investigating and sanctioning benefit fraud on behalf of the Council.
- 3.7 The team will also review the cases referred to SFIS for potential CTR fraud indicators and take forward any necessary investigations in line with the Council's currently policy. They will also add this area to the fraud risk register and work to develop a proactive approach to this type of fraud commensurate with the level of risk.
- 3.8 Going forward, the Audit Committee will receive assurances relating to both HB and CTR fraud in the annual fraud update provided by Internal Audit.

4. BFIT - Case Studies

- 4.1 For interest, the following are some examples of investigations conducted by BFIT during 2014/15. They demonstrate a range of case types and how the teams have worked jointly with the police and DWP fraud staff bringing together the expertise and legislative powers to gather the evidence required to bring these fraudsters to justice.

Case study 1 – Undeclared income of partner.

- 4.2 A joint investigation with South Gloucestershire Council investigations team identified that Mr. & Mrs. C had fraudulently claimed benefit from both Bristol and then South Gloucestershire Councils. Mr. C had been working as a self-employed builder through-out the duration of both claims for Benefit. Mr. & Mrs. C had received over £21,000 from their fraudulent claims and gone on several foreign holidays during the time. South Gloucestershire Council prosecuted on behalf of both Authorities and Mr. & Mrs. C were sentenced to 16 weeks imprisonment and have made arrangement to pay all of the money back. The District Judge called the holidays 'an aggravating factor' in the case.

Case study 2 – Sublet of Property

- 4.3 During an Investigation of identity fraud, the Investigator spotted that a landlord was also claiming housing benefit at an address he had previously vacated. He had then sublet the vacated property claiming benefit totaling £8,122 he was not entitled to. He initially pleaded not guilty. However, BFIT and legal staff obtained several witnesses from across different sections of the council and traced and secured the attendance of another 3 witness who had been his sub-tenants. In the face of so many witnesses ready to testify against him he changed his plea to guilty. The landlord was sentenced to 200 hours unpaid work and £3,000 costs.

Case study 3 – Started Work.

- 4.4 Mr. R was renting privately from an address in St George. When he vacated that property and his HB claim was reviewed, it was identified that he had

failed to notify the benefits service that he had gained employment the previous year and his jobseekers allowance had ceased. This resulted in benefits overpayments from the Council of ££3,226. Mr. R declined the opportunity to be interviewed under caution regarding the matter however the Council proceeded with legal action against him in the absence of this. At trial, the Magistrates found the defendant guilty and Mr. R was sentenced to 80 hours unpaid work and had to pay costs to the Council. In delivering their verdict, the Magistrate complimented the Council on the well investigated and presented case.

5.0 Risk Assessment

- 5.1 There are significant reputation risks to the Council if SFIS arrangements prove ineffective because the Council fails to work to the national and local protocols agreed. Information sharing agreements are in place and the retention of two staff from BFIT provides Bristol with the capacity to work to these agreements. Key information regarding information exchange and outcomes from SFIS work will be monitored for early identification of issues.
- 5.2 Transfer of housing benefit fraud investigation to the SFIS requires the Council to rethink its approach to how it deals with CTR fraud. The prosecution and sanction of offenders is a key deterrent to abuse of the CTR scheme. However, taking such action does bring with it some cost and this must be balanced against the benefits of the deterrent effect. The Corporate Investigations Team will monitor the level of this type of fraud. Again the retention of two members of BFIT provides the expertise within the Council to take forward an appropriate response to this type of work going forward.
- 5.3 The approach to and outcomes of fraud investigation work in respect of housing benefit fraud may change in line with SFIS risk and priority assessment protocols. The Audit Committee will continue to require assurance that this key fraud risk is effectively managed. SLA's are in place to ensure the outcomes of cases referred to SFIS are notified to the Council and the results of investigation work will need to be monitored.

6. Equalities Impact Assessment

No implications arising from this report

7. Legal and Resource Implications

Legal - none sought.

Resources – none.

Appendix 1 – Sanction Statistics Report 2001 - 2015

Appendix 2– Benefit Fraud Team Activity Report 2014-2015

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: None

BENEFIT FRAUD - SANCTION STATISTICS

YEAR	PROSECUTION		CAUTIONS and ADMINISTRATION PENALTIES		TOTAL	
	TARGET	ACTUAL	TARGET	ACTUAL	TARGET	ACTUAL
2000/1	-	11		-	-	11
2001/2	-	13		11		24
2002/3	26	16	22	9	48	25
2003/4	55	31	17	13	72	44
2004/5	57	29	24	31	81	60
2005/6	28	42	32	72	60	114
2006/7	40	58	84	82	124	140
2007/8	58	54	86	110	144	164
2008/9	45	55	105	105	150	160
2009/10	55	78	110	101	165	179
2010/11	68	61	102	108	170	169
2011/12	65	88	108	87	173	175
2012/13	80	82	97	84	177	166
2013/14	82	86	82	56	164	142
2014/15	59	80	60	50	119	130

Benefit Fraud Team Activity Report 2014-2015

Source	No. Referrals Received	No. Investigations Undertaken			No. Positive Cases			No. Prosecutions	No. Admin Penalties	No. Cautions	No. No Fraud Found	
		Compliance	Criminal		Compliance	Criminal					Compliance	Criminal
			LA Only	J/Working		LA Only	J/Working					
Benefits Section	329		234	64		81	16	16	3	7		201
Fraud Hotline	75		13	18		7	3	5	0	2		21
Data Matching	128		119	9		48	6	6	5	10		74
DWP	94		2	114		1	58	24	6	6		57
Interventions												
Other Visiting Activity												
Proactive	53		74	7		58	4	13	1	6		19
Other Internal	37		17	29		9	12	7	0	3		25
Other External	62		16	29		7	11	9	0	1		27
TOTAL	778		475	270		211	110	80	15	35		424

Fraud Type	No. Referrals Received	No. Investigations Undertaken			No. Positive Cases			No. Prosecutions	No. Admin Penalties	No. Cautions	No. No Fraud Found	
		Compliance	Criminal		Compliance	Criminal					Compliance	Criminal
			LA Only	J/Working		LA Only	J/Working					
Working and Claiming	216		118	73		68	41	24	7	16		82
Living Together	194		48	124		8	38	23	1	5		126
Tenancy Related Fraud	30		28	3		7	2	1	0	1		22
Undecl.Capital or Property	146		93	45		25	14	9	4	3		99
Undecl.Other Income	97		98	9		51	4	13	1	4		52
Household Comp.Fraud	14		11	5		3	3	2	0	0		10
Non-Residency Fraud	71		73	8		47	8	8	2	5		26
Identity Fraud	5		2	1		0	0	0	0	0		3
Other	5		4	2		2	0	0	0	1		4
TOTAL	778		475	270		211	110	80	15	35		424