

# Bath & North East Somerset Council

MEETING:	Corporate Audit Committee	
MEETING DATE:	6 <sup>th</sup> December 2011	AGENDA ITEM NUMBER
TITLE:	Review of Counter Fraud & Corruption Arrangements	
WARD:	ALL	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Appendix 1 – Action Plan		
Appendix 2 –Anti-Fraud & Corruption Policy& Whistleblowing Policy		
Appendix 3 – Anti-Money Laundering Policy		

## 1 THE ISSUE

- 1.1 This report presents the results of a biennial review of the Council's Counter Fraud and Corruption arrangements. This includes the review of associated Policies and Procedures as well as assessing the impacts of Fraud and misuse of Council resources on the Authority and the views of external auditors.

## 2 RECOMMENDATION

- 2.1 The Corporate Audit Committee is asked to:
- a) Comment on the review carried out and actions proposed (Appendix 1).
  - b) Confirm that the revised Anti-Fraud & Corruption & Whistleblowing Policies (Appendix 2) and Anti-Money Laundering Policies (Appendix 3) remain appropriate

## 3 FINANCIAL IMPLICATIONS

- 3.1 Fraud and Corruption can cost any organisation substantial sums of money if poorly managed, whilst there are no direct implications relevant to this report the impacts from implementing the actions proposed should hope to minimise any future risks.

## 4. The Report

### Introduction

4.1 The Audit Commission's 2011 report "Protecting the Public Purse – Fighting Fraud against Local Government" repeats the message on how Local Authorities can effectively combat fraud and manage the risk:

- Developing a zero-tolerance approach towards fraud;
- Adopting good practice in managing the risk of fraud (in the 2011 Report it specifically refers to the soon to be published National Fraud Authority Strategy 'Fighting Fraud Locally') ;
- Creating a strong counter-fraud culture and implementing counter-fraud policies and procedures.

4.2 The Audit Commission has specified the following key risk areas –

- Housing Tenancy Fraud
- Council Tax Fraud
- Personal Budgets (direct payments) fraud
- Procurement Fraud
- Housing & Council Tax Benefit Fraud
- Emerging Fraud

4.3 With the increased need to carefully manage financial resources the fight against fraud and corruption in the public sector is even more important. This Council has taken and will continue to take the necessary action to fight fraud and corruption. It defines fraud & corruption as follows –

*'Fraud is an intentional deception made for personal gain or to damage another individual or entity'.*

*'Corruption is the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person'.*

4.4 Historically within local government fraud and corruption is a result of a number of issues which can be broadly grouped into the following categories as follows –

- Inadequate record keeping (both incomplete & non-existing)
- Inadequate Management Supervision
- Conflicts of interests
- Management competency
- Inadequate compliance with Council policies & procedures
- Collusion between officers
- Inadequate verification of expenditure
- Inadequate control over cash income

- 4.5 Our review took into consideration the environment described above and then assessed our overall framework of control against the following key areas:
- (a) **Policies:** Review and update of the existing policies:
    - Anti-Fraud & Corruption Policy (Appendix 2)
    - Whistleblowing Policy (Appendix 2)
    - Anti-Money Laundering Policy (Appendix 3)
  - (b) **Culture & Awareness:** Review the Council's culture and awareness of its approach to tackling Fraud and Corruption.
  - (c) **Audit & Risk Team 'Planned' & 'Responsive' Work:** Work included in the 'Internal Audit' Plan and adopted response to reports of financial irregularities.
  - (d) **Financial Irregularity Investigations (Unplanned Work):** Internal Audit's involvement in these investigations and identified failures in systems of internal control (preventive and detective internal controls).
  - (e) **National Fraud Initiative:** Review results of the biennial National Fraud Initiative exercise run nationally by the Audit Commission.
  - (f) **Compliance with new legislation and related best practice:** Bribery Act 2010
- 4.6 The results of the review were in general very positive with no one area from the six headings above being assessed as weak or requiring detailed action or improvement. However this does not mean we can relax our approach and therefore Appendix 1 details the remaining or continual actions we are required to take to continue to combat this very real risk.

#### **Policies:**

- 4.7 Alongside the employees Code of Conduct and General Employment Standards and Rules, the Council currently has 3 key policies directly linked to anti-fraud and corruption, these are:
- Anti-Fraud & Corruption Policy (including the Fraud Response Plan) (Appendix 2)
  - Whistleblowing Policy (Appendix 2)
  - Anti Money Laundering Policy (Appendix 3)
- 4.8 The Anti-Fraud & Corruption Policy sets out roles and responsibilities and how the Council will respond to any suspected Fraud. The Whistleblowing Policy was put in place in response to the Public Interest Disclosure Act 1998 and details how the Council will support and respond to "Whistleblowers". The Anti-Money Laundering Policy is to meet the obligations placed on the Council arising from the Money Laundering Regulations 2007.

- 4.9 These policies have been reviewed and have been updated (see Appendices). The Council's policies were found to be sound in terms of content, and amendments have mainly been cosmetic (e.g. changes in Officer name / title) except for reference to the Bribery Act 2010 which came into effect on the 1<sup>st</sup> July 2011.
- 4.10 The Bribery Act was the subject of a report presented to Corporate Audit Committee on the 29<sup>th</sup> September 2011. It is possible that the Council, its Member and Officers could be held liable under offences covered by Sections of this Act. Sections 1 & 2 refer to offences committed by individuals i.e. bribing another person or accepting a bribe, while Section 6 & 7 cover offences committed by a 'commercial organisation'(bribing a foreign official or failing to prevent bribery).
- 4.11 A Bribery Act 2010 Briefing has been added to the Anti-Fraud & Corruption Policy (Appendix 3) to assist in communicating the offences and the 'good practice' principles to prevent bribery.
- 4.12 The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 place obligations on the Council and its employees with respect to suspected money laundering. The Council is not in the "Regulated Sector" but a Council Anti-Money Laundering Policy has been adopted. Only cosmetic changes have been required.

#### **Culture & Awareness:**

- 4.13 A strong anti-fraud Culture is key to preventing and detecting fraudulent / corrupt activity. Critical to the development / maintenance of this culture is an awareness of policies and procedures.
- 4.14 Since 2009, 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> tier officers have been asked to complete an Organisation Values Survey to obtain feedback about the leadership values (agreed in 2007 and enshrined in the Council's Code of Corporate Governance in 2008) i.e. whether these are being lived, and also to obtain opinions on the Council's ethical framework through responses to a number of related statements.
- 4.15 The results to the 2011 survey were very positive. A 'green' status was recorded against 'Ethics' linked to the 'Integrity' Value (honesty, openness, trust, enjoyment, professionalism, pragmatism, excellence). A further 'green' status resulted from answers in relation to the Principle that 'the Authority will promote values and behaviours for the Authority that will demonstrate how it will uphold good governance and high standards of conduct'.
- 4.16 In addition to the regular Organisation Values Survey, the Council has completed an extensive Staff Survey the last one being in 2008 (note: the 2011 Staff Survey was despatched to staff on 11<sup>th</sup> November). One statement posed for a response in the 2009 Survey was "I think it is safe to speak up and challenge the way things are done". This resulted in very positive feedback in 2008 with 83% of responses not disagreeing with that statement. This had increased at each survey completed from a low point of 57% in 1998.
- 4.17 The Action Plan in Appendix 1 records an action to liaise with Communications and Marketing to consider the inclusion of similar statements to monitor the anti-fraud culture in the Council in future staff surveys.

- 4.18 As part of developing an anti-fraud & corruption culture within the Council and promoting awareness, Audit & Risk prepare and issue a periodic Fraud Bulletin.
- 4.19 The purpose of the Bulletin is to promote fraud awareness by communicating information on known fraudulent activity to Council staff and Members. Cases reported in this Bulletin may be examples where the Council, Schools and other organisations have been targeted by fraudsters or are frauds / scams which are investigated by Council staff whilst carrying out their official duties (e.g. Benefit & Trading Standard investigations).
- 4.20 The latest version of the Fraud Bulletin was issued in September 2011 and is available via the intranet. It included an introduction by the Chair of the Corporate Audit Committee, promoting a strong counter fraud culture. Its availability was publicised using the Council's 'Staff Matters' electronic newsletter. In addition a copy was sent to all B&NES Schools via e-mail.
- 4.21 Whistleblowing posters have been distributed for display in Council buildings and with the number of recent changes to Council corporate buildings a new version of the poster is about to be distributed for display (see Appendix 1).

#### **Audit & Risk Team 'Planned' & 'Responsive' Work**

- 4.22 All planned work by the Audit & Risk Team considers 'safeguarding the council's assets'. The annual audit plan continues to include specific "Anti-fraud" work, focussing on high risk activities / functions to verify that systems of internal control are operating and that any actual or attempted fraudulent activity is identified and managed.
- 4.23 The Council's Financial Regulations places a duty on all staff to report suspected cases of financial irregularity. In addition, senior management are required to report financial irregularities to the Audit & Risk Team who act on behalf of the Director of Resources. The Audit & Risk Team respond promptly to all reported cases. The investigation of such cases can take considerable time and resources.
- 4.24 The experience and knowledge of the Audit & Risk Team is used to assist in any investigation required. This is primarily around investigating the internal control breakdown(s) so any weaknesses / risks are identified and actions are taken to manage them. In addition, the team may lead or assist with the related staff disciplinary process.
- 4.25 During periods of economic downturn and financial constraint the expectation would be that fraud and theft would increase and that would mean an increase in financial irregularities being investigated. This has not been the experience during the first half of 2011/12 and compared with past years the level of reported fraud and theft is currently very low.
- 4.26 During 2011/12 the following are examples of areas the Audit & Risk Team have been informed of:
- **Cheque Fraud** - Several schools have been experiencing cheque frauds, the severest of which amounted to 17 cheques with a total value in excess of £41,000. The fraudsters managed to obtain / intercept cheque payments and in one case a cheque was sent to an address which the supplier had vacated but

had failed to inform the school. The cheque was then copied and amended - payee details, payment amount, dates and cheque numbers. Although this is concerning for the schools concerned the National Westminster Bank have agreed repayment of the funds very speedily and have their own fraud team to carry out subsequent investigations.

- **Theft** -On-going thefts of scrap metal from recycling centres managed by Waste Services. Management have recently installed CCTV in an attempt to deter the perpetrators.
- **Cash** - A customer complaint which resulted in the identification of poor cash handling and banking procedures in one particular service area. The Audit & Risk Team are liaising with management to improve the system of internal control as a matter of urgency.

4.27 As part of the Council / PCT Integration initiative, a working protocol has been agreed and published between the Council's Internal Audit Team and the NHS Dorset & Somerset Counter Fraud & Security Management Service, who carry out investigations of fraud and corruption on behalf of the PCT. Periodic meetings take place with the NHS Counter Fraud team to exchange views, learn lessons and promote best practice.

4.28 Quarterly meetings now take place with the Council's External Auditors, the Audit Commission, to discuss and share work programmes.

4.29 We continue to liaise and network both through the West of England Chief Internal Auditors' network (covering Local Authority Audit Teams from Swindon down to Cornwall) and the Western Unitaries network (the Ex-Avon and Swindon Audit Teams).

4.30 In particular, the West of England Fraud Sub-Group is a very active group, exchanging information, providing an excellent source of expertise and knowledge, with group members sharing best practice.

#### **National Fraud Initiative:**

4.31 The National Fraud Initiative is an exercise led and co-ordinated by the Audit Commission and is statutory for all Local Authorities. Data is provided mainly by Local Authorities and Government Departments, The data the Council provides is principally used for cross-matching between systems and organisations to identify possible incidences of fraud or overpayment. Data sets (see 4.23 below) are matched every two years.

4.32 The data provided by the Council for the data matching exercises include Creditors, Payroll, Pensions, Concessionary Bus Travel, Resident Parking Permits, Residential Care, Blue Badges, Council Tax (Single Person Discount), Electoral Register, Market Traders, Taxi Drivers, and Personal Alcohol Licences (Note: Council Tax & Electoral Register are matched on a different two year cycle).

4.33 The role of Audit & Risk is to lead on the co-ordination of the exercise, liaise with Services (investigating data matches) and the Audit Commission to monitor and report on investigation outcomes. The Council investigates matches from the following data sets: Creditors, Housing Benefits, Payroll, Pensions, Concessionary

Bus Travel, Resident Parking Permits, Residential Care, Blue Badges, Insurance, Council Tax (Single Person Discount) and Electoral Register.

4.34 On a national level the Audit Commission reports the data matching and investigation exercise identifies significant fraud. In 2008/09, this was reported as totalling £215million. Despite, these large figures being reported, historically this Council has identified very little fraud and overpayments.

NFI Year	Data Matches to investigate	Value of Fraud & Overpayments identified
2004/05	3,875	£13,642
2006/07	39,344 *	£73,816 **
2008/09	8,668	£11,500 ***
2009/10 (Council Tax & Electoral Register Data Matching)	1,237 (1,003 C/Tax to E/ Register; C/Tax rising 18 234)	£15,876.09 (19% of total from NFI /Experian data matching exercise - 2010/11 £82,568).
2010/11	7926 ****	To be confirmed (see 4.26 below)

- \* over 30,000 related to Creditor Payment matches
- \*\* approx.. £73,000 was in respect of Pension overpayments (abatements)
- \*\*\* All in respect of Housing Benefits
- \*\*\*\* 2,329 matches have been processed (another 875 are in the process of being 'investigated' with a target completion date of 31/12/11).

4.34 Preliminary Results of NFI 2010/11 to date:

- 72 Cancelled Blue Badges (approximately 0.8% of total - 8,700 in circulation) – Holders deceased (as notified by Department Works & Pensions).
- 958 Cancelled Concessionary Travel Passes (approximately 3% of total - 35,000 in circulation) – Holders deceased

#### **Compliance with new legislation and related best practice:**

4.35 As detailed in 4.5 above the Bribery Act 2010 came into effect on the 1<sup>st</sup> July 2011 and a Bribery Act 2010 Briefing has been added to the Anti-Fraud & Corruption Policy (Appendix 3) to assist in communicating the offences and the 'good practice' principles to prevent bribery.

4.36 'Good practice' related to the 2010 Act refers to six principles. The review of anti-fraud and corruption arrangements has included an initial assessment of the Council's status for each of the 'good practice' principles:

**1) Risk Assessment** –bribery risks are identified and assessed.  
'Green' Status.

An initial RAG risk assessment (**pre-mitigating actions**) has been completed based on the following criteria:

- a) Operational Functions – Considering bribery risk based on the type of operation(s) managed - likelihood of Council representatives being offered or offering payments, gifts, hospitality etc.
- b) Contracting & Purchasing – Considering bribery risk based on the number, type and size of contracts / payments - likelihood of Council representatives being offered or offering payments, gifts, hospitality etc.
- c) Foreign Operations - Considering bribery risk based on the likelihood of visiting other countries or hosting foreign visits- likelihood of Council representatives being offered or offering payments, gifts, hospitality etc.
- d) Use of consultants / external organisations – Considering bribery risk based on the use of these to carry out business on behalf of the Council.

Directorate Area	Operational Functions	Contracting & Purchasing	Foreign Operations	Use of Consultants, External Organisations
People & Communities Directorate	Green	Red	Green	Yellow
Places Directorate	Red	Red	Yellow	Yellow
Resources Directorate	Yellow	Red	Green	Yellow

Even though we have assessed areas at being at medium to high risk, when we take into account the framework of internal control which is subject to regular monitoring and review (see below), the residual risk would be assessed as low.

**2) Top Level Commitment** - this is obtained through the adoption and dissemination of Council Policy and procedures. These are subject to regular review by the Council’s Corporate Audit Committee and are effectively disseminated through the Council’s communication processes. This helps to foster a culture of ‘zero tolerance’.  
'Green' Status.

**3) Proportionate Procedures** - The Council’s Anti-Fraud & Corruption Policy and related procedures have been reviewed and are considered proportionate to the risks it faces based on the nature scale and complexity of its operations.  
'Green' Status.

- 4) Due Diligence** - in respect of the organisations / person(s) who will/do perform services for or on behalf of the Council. This area may require more work to obtain assurance that sufficient action is taken to confirm that reciprocal anti-bribery agreements are in place.  
'Amber' Status.
- 5) Communication** - the Council already has procedures in place to ensure fraud and corruption policies and procedures are communicated and understood by its staff. These include the regular publication of a fraud bulletin highlighting recent cases and reminding staff of controls including reference to existing Council Policies and procedures. Based on the risk assessment (pre mitigating actions) there may be a need for targeted communications to high risk staff (those in a position to be subject to bribery). Contract documentation is clear that attempting to bribe Council officials will not be tolerated.  
'Amber' Status.
- 6) Monitoring and Review** - The internal audit and external audit functions review the adequacy of internal controls (including policies and procedures) and confirm on-going compliance. The Audit & Risk Team include an element of anti-fraud and corruption work in their Annual Audit Plan.  
'Green' Status.

## **5. RISK MANAGEMENT**

- 5.1 The risks in relation to fraud and corruption are significant as detailed in Section 3 above. The purpose of this report is to highlight the risks to the Council and to provide assurance to the Committee that action is being taken to prevent, detect and investigate wrongdoing and that the Council has a plan to maintain the momentum in combatting fraud and corruption to protect Council's resources and its reputation.

## **6. EQUALITIES**

- 6.1 A proportionate equalities impact assessment has been carried out in relation to this report. There are no significant issues to report to the Committee.

## **7. CONSULTATION**

- 7.1 The report was distributed to the S151 Officer and Monitoring Officer for consultation.

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<b>Background papers</b>	
<b>Please contact the report author if you need to access this report in an alternative format</b>	