

## Committee: Overview and Scrutiny Commission

**Date: 7 April 2014**

Wards: All

### **Subject: Single Fraud Investigation Service**

Lead officer: Paul Evans – AD Corporate Governance

Lead member: Mark Allison – Cabinet Member for Finance

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### **Recommendations:**

- A. Members are asked to discuss and comment on this report relating to the Council's Investigation Team and the introduction by the Government of the Single Fraud Investigation Service.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. To advise Members of the proposals for the introduction of national Single Fraud Investigation Service within the Department for Work and Pensions and how this may impact on the Council

## **2 DETAILS**

- 2.1. The Investigation Team historically investigated abuses of the Housing Benefit, Council Tax Benefit and the new Council Tax Reduction Scheme and when relevant, certain national welfare claims. In May 2011, the team also started investigating Whistleblowing allegations and other fraud such as:
- Tenancy fraud
  - Procurement fraud
  - Blue badge fraud
  - Personal budget fraud
  - Data matching exercises
  - Housing application fraud
  - Council Tax Rebate Scheme fraud
- 2.2. In February 2014 the Investigation Team merged with Internal Audit so that the council would benefit from a more joined up service, delivering a vigorous, robust, anti-fraud approach and targeting resources where they should produce most benefit.
- 2.3. The Audit Commission's "Protecting the Public Purse" has identified that preventing fraud is ever more important taking into account the austerity measures in place and they recommend that post SFIS Local Authorities should maintain their capacity to investigate non benefit fraud, concentrate

effort on detecting non benefit fraud which affects the council's own revenues and ensure that investigators have the right skills.

- 2.4. The council currently has an experienced counter fraud team within Internal Audit and Investigations, capable of delivering an effective and efficient anti-fraud service, generating savings and efficiencies. It is also developing a strategic pro-active fraud programme.
- 2.5. In 2010, Central Government decided that most welfare benefits would be amalgamated into a payment to be known as Universal Credit. The Department for Work and Pensions (DWP) proposed the creation of a single, integrated fraud investigation service (SFIS) within DWP that would investigate welfare benefit fraud across DWP, HMRC and Local Authorities. This was not subject to consultation.
- 2.6. Implementation plans are currently being developed and indicate that a phased rollout of this service will take place between October 2014 with a small number of sites and finishing in March 2016. Merton's date has not yet been advised.
- 2.7. DWP have taken a strategic business decision that in order to maintain an effective fraud investigation service, they are keen for staff assigned solely or primarily to investigating Housing Benefit Fraud to be identified for a potential transfer to DWP. LA employees assigned solely or primarily with fraud work not covered by SFIS will not be deemed to be in scope for transfer.
- 2.8. DWP has concluded that as benefit fraud investigations falls within "the transfer of administration functions between public administrative authorities, it is not a relevant transfer" (for the purpose of TUPE) for TUPE to apply.
- 2.9. Therefore in order to effect the transfer of contracts and provide LA employees with similar employment rights protection to that which they would have under TUPE, the Secretary of State proposes to use powers under the Employment Relations Act 1999 to create a statutory staff transfer scheme which will be "Tupe-like"
- 2.10. As SFIS is implemented the following will direct impact on Local Authorities
  - Investigation of HB/CTB fraud will move to SFIS
  - Investigation of Local Council Tax Reduction Scheme, Corporate fraud, tenancy fraud etc to remain with LAs
  - The amendment of HB/CTB claims will remain with LAs
  - The adjudication, overpayment calculation and recovery of HB/CTB overpayments will remain with LAs.
  - SFIS will request information and evidence from LAs to support investigations.
  - SFIS will use single prosecution bodies (Crown Prosecution Service for England and Wales)

- 2.11. Currently Internal Audit and Investigations work in partnership to detect, deter and pursue fraud within the organisation. Whistleblowing has been actively promoted and consequently referrals have increased, as well as requests for advice and guidance. We are developing a programme of proactive fraud exercises. We work together with Parking Services on a monthly Blue Badge Fraud exercise and have received positive comments from the public, who welcome this.
- 2.12. The council could be left vulnerable to fraud if a significant number of Investigators are transferred to DWP. Merton has invested in their training and the loss of experienced staff would have an adverse effect on the counter fraud activity it is seeking to promote across the organisation and what is best for the public purse and Merton residents. The council will seek to mitigate any loss of expertise as the effect of the changes are made clear by DWP, but would be disappointed to lose any in-house knowledge in this way.

### **3 ALTERNATIVE OPTIONS**

- 3.1. None

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. Ongoing

### **5 TIMETABLE**

- 5.1. It is not known when the service will be rolled out to Merton but it will be between October 2014 and March 2016

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. Not known

### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. As referred to in paragraphs 2.8 and 2.9 above, the DWP has concluded that TUPE regulations do not apply to this proposal. However, the Cabinet Office Statement of Practice for Staff Transfers in the Public Sector says that in circumstances where TUPE does not apply in strict legal terms to a transfer between different parts of the public sector the principles of TUPE should be followed as far as possible and in accordance with business need in order to maintain an effective fraud investigation service the DWP has decided to adopt this principle.
- 7.2. The legal platform to enable the transfer is by way of a Legislative Transfer Scheme as provided by Section 38 of the Employment Relations Act 1999. This is effected by way of a Statutory Instrument. The transfer of staff by way of a transfer scheme will be "TUPE-like" in that it will provide protection of existing terms and conditions of employment.
- 7.3. The DWP has invited local authorities to comment on their plans for the transfer of staff by 14 April 2014. Merton intends to respond to this consultation in line with comments from LGA and the AD for Corporate Governance will draft a response in consultation with the relevant Cabinet member.

**8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. Equality Impact Assessments have been completed as part of the project. Equality implications will be kept under review as the project evolves.

**9 CRIME AND DISORDER IMPLICATIONS**

9.1. The impact on the investigations service which will stay within the local authority will need to be considered in light of SFIS and the transfer of staff to DWP.

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. The risk is related to retaining enough staff to effectively cover counter fraud activity.

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

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**12 BACKGROUND PAPERS**

12.1.