

## Committee: Standards and General Purposes Committee

**Date: 9<sup>th</sup> November 2022**

### **Subject: Fraud Update**

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### **Recommendation:**

**That members note the Fraud Progress report that includes an indicative plan for the application of resources for 2022/23, a review of activity completed during 2021/22 and 2022/23 to October 2022, and comment on the matters arising from it.**

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## **1. Purpose of Report and Executive Summary**

- 1.1 One of the responsibilities of the Committee is to maintain an overview of the effectiveness of the Council's arrangements for corporate governance, particularly those concerned with risk management, internal control, financial governance, treasury management, and counter fraud and corruption; obtaining assurance that appropriate action is being taken on any issues raised.
- 1.2 Members recognise that the funds the Council administers and services it provides are targeted by fraudsters, and support the fight against Fraud and Corruption through an anti-fraud strategy and culture that seeks to:
  - Have robust arrangements and executive support to ensure anti-fraud, bribery and corruption measures are embedded throughout the organisation.
  - Acknowledges and understands fraud risks and commits to support and resource tackling fraud through maintaining a robust anti-fraud response.
  - Prevent and detect more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture.
  - Prioritises fraud recovery and the use of civil sanctions. Developing capability and capacity to punish fraudsters. Supports collaborative work

across geographical sector boundaries. Learning lessons and reducing fraud risks where possible.

- Protect ourselves, residents and service users from becoming disadvantaged by those seeking to commit fraud through recognising the harm that fraud can cause in the community and seeking to minimise this.

- 1.3 This report seeks to provide the Committee with assurance over the arrangements for protecting the Council, it's residents and service users against fraud and corruption.
- 1.4 Merton Council entered into a shared fraud investigation service, known as the South West London Fraud Partnership (SWLFP), with Kingston, Richmond, Sutton & Wandsworth Councils, in April 2015.
- 1.5 This pooling of resource under a single team helps strengthen resilience for individual authorities, enhances collaborative approach to fraud investigations and introduces the ability to undertake regional proactive counter fraud exercises, and have call upon a larger fraud resource when needed, enhancing both capacity and capability.
- 1.6 For 2022/23 the SWLFP investigation team comprises 14.5 posts, with a mixture of expertise from both within and outside local government. All Investigation Officers are members of the Government Counter Fraud Profession (GCFP) and in addition we have three officers who are completing the GCFP Counter Fraud Investigator Apprenticeship. The professionalisation of the team will help ensure investigative techniques are both current and legally compliant, helping to sustain capability.
- 1.7 Individual partner authorities retain responsibility for ensuring that its affairs are managed in accordance with proper standards of financial conduct and for preventing and detecting fraud and corruption.
- 1.8 The use of technology and ongoing improvements to accessing key systems, intelligence sources and records for fraud detection and prevention means that the fraud response capability has been able to manage and address the volume of fraud referrals received and to deliver and promote fraud awareness training.
- 1.9 Members can be reasonably assured that there are suitable systems in place for the identification and investigation of allegations of fraud. Most referrals are received from in-house teams which is a good indication that a reasonable level of fraud awareness exists across all Council staff supported by the Council's Anti-Fraud and Anti-Corruption Strategy and culture.
- 1.10 The Council has made suitable provision for the investigation and prevention of fraud and corruption.

## **2. 2022/23 Indicative Fraud Plan**

- 2.1 Priority areas of coverage for individual partner Councils are agreed through consultation with the Shared Services Board and the Heads of Audit.

2.2 Tables 1 & 2 provide an indicative breakdown of how the fraud resource for 2022/23 will be applied in terms of reactive and proactive work, with a split by fraud type, and the key performance targets.

**Table 1: 2022/23 Indicative Fraud Response Plan**

	Estimated Days	%	Resource Allocation by fraud type	%
Referral Triage & Review	38	9.3	Internal (e.g. employee)	23.5
Proactive Fraud Drives	73	17.9	CTR/SPD/Business Support Grant	21.1
Fraud Investigations	258	63.2	Parking Permit	4.7
Fraud Awareness/prevention	18	4.4	Corporate – Other	8.5
Contingency	21	5.2	Tenancy	32.8
			Housing applications	4.7
<b>TOTAL</b>	<b>408</b>	<b>100.0</b>	Right to Buy	4.7

2.3 The SWLFP continues to work closely with the Social Housing Providers in relation to concerns over tenancy fraud and abuse and facilitate the Social Housing Investigation Partnership (SHIP), a forum that is accessible to social housing providers who have property within at least one of the fraud partnership authorities. Every property recovered frees up a place for a family on the Council’s waiting list therefore reducing the impact of the temporary housing costs on the General Fund.

2.4 Partnership working provides a sound framework to help identify and respond to tenancy fraud and abuse resulting in the recovery of misused tenancies which can be assigned to those in genuine eligible need thus reducing the call upon temporary housing provided by local authorities.

**Table 2: Key Performance Targets 2022/23**

Activity	Performance Indicator	Target
Work with Housing Associations and Housing teams to establish and deliver a programme of proactive fraud checks including illegal subletting	Properties brought back into Housing Associations/ Council control following identification of fraud	9 properties
Develop joint working with Housing teams to proactively identify housing fraud	Housing applications withdrawn as a result of fraud work	20 applications withdrawn
Delivery of the Fraud Plan	% of the Fraud Plan delivered	95% of the Fraud Plan by 31 March

### 3. Summary of Fraud Investigations and Performance Results

3.1 The Tables below summarise the fraud work undertaken, with Table 3 summarising progress against the key fraud performance targets. In total, 153 fraud cases have been worked on (115 new cases, with 38 cases c/f from 2021/22) as a result of either referrals received, or concerns highlighted through pro-active fraud drives since April 2022. For 22/23, to October 2022, 153 fraud cases have been worked on.

**Table 3: Performance against key objectives and targets for 2022/23**

Activity	Performance Indicator	Target	Actual
Work with Housing Associations and Housing teams to establish and deliver a programme of proactive fraud checks including illegal subletting	Properties brought back into Housing Associations/ Council control following identification of fraud	9 properties	0 (3 other cases are with legal for recovery action)
Develop joint working with Housing teams to proactively identify housing fraud	Housing applications withdrawn as a result of fraud work	20 applications withdrawn	89 applications withdrawn
Delivery of the Fraud Plan	100% of the Fraud Plan	95% of the Fraud Plan by 31 March	39.37%

**Table 4: Summary of fraud referrals**

	2020/21	2021/22	2022/23 (to 31/10/22)
Referral accepted in period for investigation by type:			
- Tenancy fraud/abuse	48	40	26
- Housing Applications	2	66	82
- Right to Buy	3	5	0
- Permit Fraud	4	3	7
- Internal - Employee	17	10	7
- External - CTR & SPD	6	12	21
- Other	23	11	10
Total referrals in period	103	147	153
Closed in period			
- Closed no fraud	45	33	20
- Closed with sanction	8	78	93
Referrals still under investigation	50	36	40

3.2 Tables 4 and 5 provide a breakdown of the fraud/abuse referrals that have been accepted for investigation and a summary of the value of fraud/overpayments and notional savings identified as a result of the fraud work undertaken, with comparisons to previous years.

**Table 5: Summary of Overpayments and Notional savings**

(* notional savings figures as per Audit Commission estimates)	2020/21 £	2021/22 £	2022/23 £ To 31/10/22
Social Housing (notional @ £93k per property recovered from 2020)	372,000 (4 props)  26,423	465,000 (5 props)	Nil
Housing Applications Rejected (notional £3,240 from 2020 per application cancelled)	3,240 (1 app)	191,160 (59 apps)	262,440 (81 apps)
Right to buy (notional @ £100k discount)	Nil	100,000 (1 app)	Nil
Blue Badges & Parking Permit (including notional @ £575 per case from 2020)	575	1,150	1,979
Internal – Employee (notional £6k per case)	12,000 (2 cases)	24,000 (4 cases)	12,000 (2 cases)
Council Tax (identified overpayments and administrative penalties)	Nil	43,882	15,794
Other/NFI	10,000	188,700	22,000
<b>Total actual and notional savings</b>	<b>424,238</b>	<b>1,013,892</b>	<b>314,213</b>

3.3 For the past two years progression on fraud cases has been affected by Covid and changed working practices, notably within the ability to progress Tenancy Fraud was limited as access to Courts was reduced and there were periods where the ability to action eviction notices was suspended.

3.4 Whilst Merton Council do not directly manage any social housing, the cost of temporary accommodation does rest with the Council, so every property, that is being misused, recovered represents a nomination right for the Council and the opportunity to place a family in need into more secure accommodation and reduce to call upon Council funds.

- 3.5 We have continued to notice a lower than expected volume of tenancy fraud referrals 22/23, with system issues, with the main social housing provider within the borough, impacting their ability to report fraud concerns. Whilst issues with referrals and progress on case investigations will remain until these system issues are resolved, the team are reviewing alternative approaches to highlighting potential fraud concerns.
- 3.6 Whilst movement restrictions were applicable to everyone during Covid, the volume of fraud remained at similar level, as fraudster changed their methods quickly moving onto to target the funding support arrangements that were put in place to support those in need. In response, significant resources have been applied to support services delivering Government Funded business support grants and this work continues with support of the ongoing post payments assurance work that is required.
- 3.7 Although we have not had as regular direct contact with Council teams, contact has been maintained through regular use of Microsoft Teams meetings has supplemented some activities previously undertaken in person.
- 3.8 **Closed Investigations:** Appendix A provides a brief summary of the completed investigations, in 2022/23, into fraud and financial irregularity that have resulted in a sanctioned outcome. The variety of the type of referrals received reflects the effectiveness of the implementation of the Council's Anti-Fraud and Anti-Corruption Strategy and indicates a reasonable level of general fraud awareness by officers across all the Council's departments.
- 3.9 **Tenancy Fraud:** In addition to the 5 properties that were recovered in 2021/22, Notices and legal action has commenced on a further 3 cases. All three cases have been impacted by extended delays following the Covid-19 pandemic and the backlog of cases awaiting further Court action.
- 3.10 Discussion are being held with legal to monitor and respond to the Covid 19 impact upon the on-going and future proposed possession action as the Civil and Criminal Court systems will have to address the backlogged of cases and rationale for case prioritisation.

#### **4. Developments in Fraud Detection and Prevention**

- 4.1 The fundamental challenge that public bodies face with fraud is that it is often a hidden crime with those committing it actively try to conceal it so we must be proactive in our efforts to seek it out.
- 4.2 **Data Analytics:** The principles for maximising collaborative and smarter working through data sharing are key to the successful operation of the National Fraud Initiative.
- 4.3 London Councils working with NFI have established a London centric fraud hub. This is intended to enhance localised data-matching, supplementing the statutory national fraud prevention and detection initiative with an opportunity

for closer to real-time data-matching or areas of local concern. It can also provide an on-line repository that can be used to validate applications for certain Council provided services.

4.4 National Fraud Initiative (NFI): The Mandatory National 2022/24 NFI exercise is about to commence where data is requested in accordance with Part 6 of the Local Audit and Accountability Act 2014 and for Sutton Council this meant the provision of the following datasets:

- Blue Badge Parking Permits	Deferred Pensions
- Creditors History	Pensions Gratuities
- Creditors Standing	Pensions
- Concessionary Travel Passes	Payroll
- Council Tax Reduction Scheme	Resident Parking Permits
- Right to Buy	Waiting Lists

4.5 Service Leads have been contacted to ensure that they will be in position to provide the required data by the due dates. System developments will always mean that there may changes in how data is held and made available and any concerns with to supply of the mandated data files will be reported to the Director of Corporate Services.

4.6 **On-line Fraud Awareness Training**: An on-line fraud awareness training package, aligned to Merton's policies and procedures, has been made available for all officers to increase awareness and understanding of how and to who suspicions of fraud or irregularity should be reported. With continual changes in staffing and staff roles regular reminders on fraud awareness helps support and robustly maintain the Council's Anti-Fraud and Anti-Corruption Strategy and Culture.

4.7 The on-line fraud awareness training package for officers has been revised and is now separated into three modules covering: Anti-Bribery & Corruption, Whistleblowing and General Fraud Awareness. The modules have been provided to the Human Resource Team who will be making it available to all officers on the new training platform. has been commissioned. This learning platform, which is shared with two other authorities and managed by Human Resource, should be ready for use this Autumn.

## 5. **Regulation of Investigatory Powers Act:**

5.1 The Regulation of Investigatory Powers Act 2000 (RIPA) sets out the circumstances in which councils may lawfully instigate covert surveillance activity which may result in obtaining private information about an individual. The ability to use surveillance is an essential investigation tool and can be the only pragmatic method for securing sufficient evidence of suspected offences to enable sanctions or prosecution, where necessary.

- 5.2 Where offences do not attract the potential sentence of 6 months or more of imprisonment, surveillance can still be undertaken but it is no longer possible to obtain the full RIPA shield. This includes the investigation of offences such as the misuse of a disabled person’s Blue Badge (an offence under Section 117 of the Road Traffic Regulations Act 1984). In such instances the full RIPA process is followed to demonstrate full consideration of the necessity and proportionality for the need to deploy surveillance but without the final approval stage from a justice of the peace. These are classified as Non RIPA applications.
- 5.3 Oversight and authorisation of full RIPA applications is undertaken by the Monitoring Officer as the designated Senior Authorising Officer for RIPA and oversight and authorisation of a Non RIPA application is undertaken by the Head of the SWLFP. A summary of RIPA and Non RIPA applications made since 1<sup>st</sup> April 2020 is shown in Table 6 below.

**Table 6: Summary RIPA and Non RIPA applications**

	2020/21	2021/22	2022/23 (to 31/10/22)
Full RIPA applications	0	1	0
Non RIPA applications	0	0	4

- 5.4 The full RIPA application in 2021/22 related to misuse of a stolen disabled persons Blue Badge that had been seen in use within the borough. Unfortunately, although the Blue Badger was recovered the evidence collated was not sufficient to support further prosecution.
- 5.5 All four of the Non RIPA applications relate to suspected Blue Badge misuse under the Road Traffic Regulations Act. One case has resulted in a successful prosecution and for another a prosecution file is being prepared. Investigation is still ongoing for the two remaining cases.
- 5.6 The Council’s arrangements for the use of RIPA were last inspected in January 2020 by the Investigatory Powers Commissioner’s Office (IPCO), and having taken on board recommendations made within their report the Council has suitable arrangements in place for the appropriate use of directed surveillance under RIPA.

## **6. Local Government Transparency Code.**

- 6.1 Under the code the Council is required to publish the following data regarding its Fraud Investigation activity. Listed below are 2022/23 figures (with 2021/22 comparative figures shown within brackets).

Accredited number of occasions they use powers under the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014, or similar powers

	(21/22)	22/23 (to 31/10/22)
Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014	5	1
The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013	1	0
Total number (absolute and full time equivalent) of employees undertaking investigations and prosecutions of fraud		
	Absolute	FTE
Fraud Investigation - SWLFP #	15 (15)	14.5 (14.5)
Total number (absolute and full time equivalent) of professionally accredited counter fraud specialists		
Government Counter Fraud Profession (GCFP)	11 (n/a)	11.0 (n/a)
GCFP Counter Fraud Investigator Apprentices	3 (n/a)	3.0 (n/a)
PINS trained Fraud Specialist	n/a ( 6)	n/a ( 6.0)
CIPFA Certificate in Investigative Practices	n/a ( 2)	n/a ( 2.0)
CIPFA Accredited Counter Fraud Specialist	n/a ( 4)	n/a ( 4.0)
Total amount spent by the authority on the investigation and prosecution of fraud		
	21/22	22/23
Fraud Investigation, awareness & prevention	£128.5k	£131.1k
Total number of fraud cases investigated.		(to 31/10/22)
Housing/Tenancy related Investigations	106	108
Right to Buy	5	0
Permit Fraud Investigation	3	7
Other Investigations	<u>33</u>	<u>38</u>
TOTAL	147	153

6.2 To ensure that sufficient knowledge and capability for fraud investigation Merton Council entered a partnership with four neighbouring boroughs, the SWLFP. The Council has access to the pool of trained fraud investigation officers' dependent upon the demands of any individual fraud referral. Merton's resource contribution for 2022/23 equates to 2.0 FTE Investigators.

## 7. Financial, Resource and Property Implications.

7.1 There are no specific financial, resource or property implications. completed within existing resources.

## **8. Legal and Statutory Implications**

8.1 This report provides details of 22/23 fraud activity levels as required under the Local Government Transparency Code.

## **9. Human Rights, Equalities and Community Cohesion Implications**

9.1 There are no specific human rights, equalities or community cohesion implications, except in so far as this report is wholly concerned with good governance.

## **10. Risk Management and Health and Safety Implications**

10.1 There are no specific risk management or health and safety implications.

## **11. APPENDICES – The following documents are to be published with this report and form part of this report**

11.1 Appendix A: Summary of Closed Cases with Sanction 2022/23.

### GLOSSARY

CIPFA	Chartered Institute of Public Finance and Accountancy
CTR	Council Tax Reduction
GCFP	Government Counter Fraud Profession
FTE	Full Time Equivalent
IPCO	Investigatory Powers Commissioner's Office
NFI	National Fraud Initiative
PINS	Professionalism IN Security
RIPA	Regulation of Investigatory Powers Act
SHIP	Social Housing Investigation Partnership
SPD	Single Person Discount
SWLFP	South West London Fraud Partnership