

**Agenda Item No:** 4  
**Report To:** **AUDIT COMMITTEE**  
**Date:** **25<sup>th</sup> June 2012**  
**Report Title:** **Fraud Annual Report 2011/12**  
**Report Author:** **Investigation and Visiting Manager**



**Summary:** This report provides an update to the work of the Fraud and Visiting Team, sets out a summary of the Team's work for the financial year 2011/12 and the team's future priorities.

An extremely productive year for the small resourced team (majority of the financial year with only 1 Investigator) that has generated results in a number of areas, in particular Tenancy Fraud where the team have been applauded for its successes by the Audit Commission.

A year that created over £170,000 of overpayments due to fraudulent benefit claims but also a year that produced increased income from recovery of overpayments.

Proactive work undertaken on investigating Council Tax discounts and exemptions has resulted in proven outcomes and generated further Council Tax income. The zero tolerance to fraud message has further been conveyed to Ashford Borough residents.

Fraud Awareness to high risk areas to ensure prevention is maximised to create an anti-fraud culture and reduce the impact on the Council.

Continual review of the service reflecting the future changes and impacts ahead with Single Fraud Investigation Service (SFIS), a new Council Tax Discount scheme, changes to National Non-Domestic Rates (NNDR) and Universal Credits in the coming year leads to further discussions with the Audit team on joint fraud issues reflecting all areas for the Council.

**Key Decision:** No

**Affected Wards:** Not applicable

**Recommendations:** **The Audit Committee be asked to:-** note the content of the report

**Policy Overview:** Not applicable

**Financial** None

**Implications:**

<b>Risk Assessment</b>	The Fraud and Visiting Team's role includes the prevention and detection of fraud within Council Tax, Benefits and Housing and therefore it contributes to the overall risk management environment through the work it undertakes.
<b>Equalities Impact Assessment</b>	None
<b>Other Material Implications:</b>	None
<b>Exemption Clauses:</b>	None
<b>Background Papers:</b>	<p>a. Protection of Freedoms Bill – Royal Assent 01/05/12 <a href="http://www.publications.parliament.uk/pa/bills/cbill/2010-2011/0146/20111146.pdf">http://www.publications.parliament.uk/pa/bills/cbill/2010-2011/0146/20111146.pdf</a></p> <p>b. OSC inspection report 02/08/2011 – available on request</p> <p>c. Protecting the Public Purse 2011 - <a href="http://www.audit-commission.gov.uk/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/20111110-ppp-2011.pdf">http://www.audit-commission.gov.uk/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/20111110-ppp-2011.pdf</a></p> <p>d. Tenancy Fraud – DCLG consultation document <a href="http://www.communities.gov.uk/documents/housing/pdf/2064044.pdf">http://www.communities.gov.uk/documents/housing/pdf/2064044.pdf</a></p> <p>e. Fighting Fraud Locally, Local Government Fraud Strategy – <a href="http://www.fightingfraudlocally.co.uk/">www.fightingfraudlocally.co.uk/</a></p>
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## **Report Title: Fraud Annual Report 2011/12**

### **Purpose of the Report**

1. To keep Members updated on the role of the Fraud and Visiting Team and the officers who make up the team.
2. To provide a summary of the work and activities of the Team for the Financial Year 2011/12.
3. To advise of the proposed future areas of work for the Team for the Financial Year 2012/13.

### **Issue to be Decided**

4. Members to note the report

### **Background**

5. This report is the 3<sup>rd</sup> annual report of its kind to the Audit Committee relating to the work of the Fraud and Visiting Team.
6. The primary role of the team is the prevention and detection of fraud within Council Tax, NNDR, Tenancies and Housing & Council Tax Benefits. It is appropriate that the Audit Committee, under its Terms of Reference, is aware of both the role and work of this team.
7. Ashford Borough Council has nearly 50,000 Council Tax properties, including 5,000 Council owned houses, and just under 4,000 Non-Domestic properties. We pay out over £30 million of Council tax and housing benefits on over 10,000 claims (the highest level for some time).

### **The Fraud and Visiting Team**

8. The Fraud and Visiting Team forms part of the Revenues and Benefits Service. The team 'establishment' comprises:

Investigation and Visiting Manager

2 x Investigation Officers

(1 vacant post from Feb 2011 through to March 2012)

(1 on Maternity Leave from May 2012, with a temporary post agreed to cover from mid June)

2 x Generic Visiting Officers

1 x Support Officer

### **Working in Partnership**

9. The Team works closely in partnership with a number of departments within Ashford Borough Council and other outside agencies, including close working relationships with relevant government agencies. A growing area of partnership working is with the Housing service, not just working closely now on prevention and detection of Tenancy Fraud cases, but working together on

a more routine basis. This includes interviewing and visiting jointly to ensure all cases are dealt with from a criminal and civil perspective at the same time, providing efficiency and effectiveness. This allows the Council's housing stock to be accessed and used by those who really need it. This holistic approach ensures the investigation covers all angles and encompasses our customer duty as a Local Authority.

10. The investigation and interviewing skills within the team are used on a regular basis across other departments in the Council when required. In addition the Team has a good working relationship with the Department of Works and Pensions (DWP) which ensures that all investigations regarding Benefit Fraud are conducted jointly and where appropriate the correct sanction for the totality of the fraud is applied.
11. The Team works in conjunction with the Community Safety Unit, attending meetings, joining operations and sharing intelligence within the CSU meetings. This includes all areas regarding the prevention of crime and where intervention is required across the borough.

### **How Fraud is Detected and what was investigated in 2011/12**

12. Referrals to the team are received from a number of sources. For the financial year 2011/12, 463 referrals were received from the following sources

<b>Source</b>	<b>Number of Referrals</b>
Anonymous	74
Benefits	54
Visits	23
Housing Benefit Matching Service	27
Department of Work & Pensions	55
Housing	37
Local Tax Team	20
Landlords	5
Customer Contact Centre	71
Hotline	31
Other Council Departments	1
Police	18
National Fraud Initiative	6
Other	41
<b>Total</b>	<b>463</b>

13. Of these:

- 159 Investigation files were raised.
- 91 were rejected and referred to the DWP.
- 57 were rejected and passed for a visit
- 156 were rejected, no further action

14. The Teams 'success' can be measured in a number of ways:
  1. Number of sanctions (cautions, administrative penalties or prosecutions) for Housing & Council Tax Benefit fraud cases.
  2. Council house tenancies cancelled and properties relet in cases of detected Tenancy Fraud

3. Fines under the Local Government Finance Act for Council Tax Frauds.
  4. Values of overpayment resulting from investigation and recovery of these monies.
  5. Successful outcomes:- following a preventative investigation where an award of benefit/discount is not given, or a case does not proceed to sanction but the fraudulent activity has been stopped.
15. Overpayment of benefit that is not caused by local authority error is of course recoverable and is also a very important area as it affects the level of subsidy the Council receives from Central Government. If a fraud is detected resulting in an overpayment then 60% of the amount subsequently recovered must be paid back to Central Government. The remaining 40% or part thereof is retained by the Council to assist with its costs. Increased resources in this area could prove to be highly financially viable for the Council to maximise income.
  16. A strong focus of the team is in preventing fraud, which cannot be specifically measured, but is a very important part of the Team's role. Generally the benefits application system places emphasis on minimising error and fraud from the outset with the various validation measures that must be performed before a claim enters the system. However, while a deterrent it cannot totally prevent fraudulent claims entering the system.
  17. Every fraud that is stopped from entering the system reduces the likelihood of an overpayment occurring and that would need to be recovered, a property being allocated that later needs recovering or a discount that needs removing and further collection of money is required. These outcomes are recorded within 'successful outcomes'. A lot of time has been spent in this area in 2011/12 and the staff involved have seen a change in culture within the organisation and have noted the message that has been given to our residents.
  18. Although the Council cannot publicise all its sanctions, those cases which go to court are highlighted publically through media statements and often published in the local press; this both raises the profile of the Team's work while sending out a deterrent message.
  19. All first hearings at court are presented by the Fraud Manager to maximise efficiency and reduce legal fees in this area. All investigation costs for cases are provided at court with a view to recover as much as practically possible from the defendant in the case.

## 2011/12 Results

No. of cautions administered	18
No. of Administrative Penalties administered	5
No. of successful prosecutions	3
Overpayments due to sanctioned cases	£64,592.16
Overpayments due to Investigated cases (£)	£172,820.94
Administrative Penalties Collected (£)	£1,745.84
Properties recovered	2
Applications for housing rejected	2
Council Tax fines	1
Successful Outcomes (only recorded from 01/10/11)	20

The results from the proactive joint working between the team and Housing have already resulted in two properties being recovered for 2012/13 and eight more tenancies are jointly under investigation with the housing service. One of the cases was a contested hearing for sub-letting at court and officers jointly investigated, interviewed and presented the case at court and successfully gained possession of a two bedroom property as a result.

### **Data Matching - National Fraud Initiative Exercise (NFI)**

20. The National Fraud Initiative is a biennial exercise run by the Audit Commission which all local authorities are required to participate in. The exercise matches electronic data within and between audited bodies (which extends to local authorities, police authorities, local probation boards and fire and rescue authorities) to prevent and detect fraud.
21. A key area from this exercise has been to highlight potential fraudulent matches relating to benefit payments. The Fraud and Visiting Team has always investigated these matches to a very high level to ensure high risk cases are dealt with accordingly and to put into place any preventative measures against fraud. A strategy is submitted to Internal Audit at the beginning of each exercise with a report of outcomes and findings at the end.
22. This exercise has identified only a relatively low level of cases where error or fraud has occurred and the results provides assurance that the procedures in place afford appropriate safeguards.

### **Data Matching - Housing Benefit Matching Service (HBMS)**

23. The Housing Benefit Matching Service is a monthly data matching exercise provided by the Department of Works and Pensions (DWP) that matches Housing Benefit data with DWP benefit data to advise of changes to claims between the systems that may affect entitlement to Housing Benefit. These matches are now dealt with by the processing staff to ensure the claims are amended quickly. Any large anomalies are passed for further investigation.

### **Visiting**

24. Due to the future changes ahead within the Welfare Reform Act, the role of the Visiting Officers is more focused on ensuring the Council Tax and National Non-Domestic Rate (NNDR) base is kept up to date. Up until April 2013 NNDR income is collected in its totality on behalf of Central Government. However from April 2013, 50% of this will be retained for distribution between the borough Council and the main precepting authorities as the main element of core general income. Hence, the collection risk also becomes more of a direct 'liability'. In the present climate this is a high risk area with the potential for customers to look at ways to avoid paying their liabilities, with an increased risk of a higher level of fraudulent claims for Council tax discounts and exemptions. Paying attention to this ensures that revenue is maximised to its full potential. Any claims that are made for exemptions/discounts fraudulently are investigated.

25. Following five successful years of joint working with the locally based Pension Service their focus has been changed by the DWP and they no longer visit pensioners. They are now part of the Department of Work & Pensions and their remit is to visit vulnerable people only. During the partnership we were fortunate to have three days a week of resources allocated to visiting. Pensioners within the Ashford Borough and included in these visits was part of the review of entitlement to Housing & Council Tax Benefit. The removal of this resource by the DWP has meant that there has been far less capacity to make visits to verify details held of benefit claims for pensioners in the last financial year.
26. To assist with front-end prevention we now have a computer based tool 'Risk Based Verification' in place. This tool risk assesses all claims made electronically and all those that are identified as high risk receive further intervention by way of credit checks and visits.

## **Fraud Awareness Training**

27. The Fraud and Visiting Team provide annual fraud awareness training to Benefits Assessment staff, Council Tax staff, Customer Service Advisors and staff within Housing. The level of training ranges from general awareness training to in depth mock investigations and interviews.
28. At times there has been training provided to magistrates, members and managers. It is proposed for the future that all Managers received a half day training a year on the Fraud Risks to the Council. To ensure all areas of risk are covered this is to be provided with a joint approach from the Audit Team and the Fraud Team.

## **Record Retention Policy & Information Sharing**

29. All investigation records are kept for a minimum of 18 months after the closed date for annual audit purposes. All records are then destroyed in line with the Criminal Procedures Investigatory Act 1996 (CPIA).

## **RIPA**

30. RIPA (Regulation of Investigatory Powers Act) is used on cases where there is substantial circumstantial evidence suggesting a fraud causing a great loss to the public purse is occurring. Surveillance is evidence that is given greater credibility in court as it is real time evidence and supports the prosecution in its case when proving beyond reasonable doubt that the fraud has been committed. RIPA is an essential part of an Investigators tool kit, without which, many of our more professional fraudsters would remain undetected and unpunished. The cases where RIPA was necessary to uncover the facts are the larger frauds where all other options are not possible. It would have great impact on the public purse if these were not investigated, stopped and prosecuted. The Protection of Freedoms Bill 2012 received Royal Assent on 1<sup>st</sup> May 2012 and a small part of the Bill concerns changes to RIPA legislation for Local Authorities, this is that, applications must be signed off by a Magistrate. (Background Paper a). The OSC (Office of the Surveillance

Commissioners) will issue revised guidance when the Bill comes into force, date not yet known. Ashford BC is inspected by the OSC regularly and our last inspection was on 30<sup>th</sup> June 2011. A copy of the letter and report is attached, (confidential attachment).

## Tenancy Fraud

31. As noted above the Investigation Team and the Housing Operations Team now work together routinely to carry out joint investigations of Council tenancies. Following continued support for further work in this area, time has been spent over the last year working on the foundations, changing the culture and training to ensure the way forward provides the right results for Ashford. Investigators and Housing Officers work alongside each other during investigations and the Managers from both areas meet regularly on decision making. The Audit Commission have advised that the cost of Tenancy Fraud can be calculated by either using the figure of £18,000 a year to keep a family in temporary accommodation or a figure of £150,000 for a new build property. There is a far greater saving from preventing and detecting Tenancy Fraud than there is for Housing & Council Tax Benefit Fraud. The Audit Commission's latest publication 'Protecting the Public Purse 2011' should be read as a background document and noted that the team's success in this area is quoted in this publication. (background paper c).
32. A consultation document on Tenancy Fraud was released by DCLG for all social housing providers and investigation teams to respond to (background paper d). A copy of the response compiled jointly by the Housing Operations Manager, the Housing portfolio holder and the Investigations Manager can be provided on request.

## Other Fraud

33. During the year the team dealt with a timely and robust investigation into fraudulent activity by way of falsified postal vote applications by a potential candidate. The matter was investigated and a fully prepared file passed to the police. The candidate was arrested and interviewed regarding the matter. This is currently being dealt with by the Crown Prosecution Service.

## What Next?

34. The government announced that from April 2013 there will be one Single Fraud Investigation Service (SFIS) to investigate all benefit fraud. This will comprise of Department of Work & Pensions, HMRC and all Local Authorities. Following consultation it was agreed that between April 2013 and March 2015 the Fraud staff would remain working and based at the local authority and funded in the same way through the administration grant. The full future details and impact of SFIS after March 2015 are still unknown. Some detail can be found with The Welfare Reform Act 2012. In a letter dated 21<sup>st</sup> March 2012 addressed to Chief Executives, the DWP stated the following:

*In February 2012 the Department published a joint strategy with HMRC and the Cabinet Office 'Tackling fraud and Error in Government' outlining plans to tackle fraud and error in the tax credit and benefit system. As part of this strategy we are creating a single integrated fraud investigation service with statutory powers to investigate and sanction all benefit and tax credit offences. We are also piloting*



*a Mobile Regional Taskforce to concentrate on fraud in targeted, small, areas of the UK.*

*In November 2011 Lord Freud announced that local authority staff currently employed on welfare benefit investigation will become part of SFIS from 2013. These staff will remain employed by local authorities, but operate under SFIS powers, policies, and priorities.*

*Further detailed design work has been underway, collaboratively with HMRC, DWP and local authorities since November 2011 and a design discussion document will be circulated for informal consultation with stakeholders in April 2012*

35. The last year has shown a change in culture and created working practices that have become second nature for cross departmental working. There is definitely more of a corporate view on investigations and enforcement for the future. A number of discussions for the future and working needs have led to the possibility of the Fraud and Audit Teams working closely together on Corporate Fraud exercises.
36. Audit and Fraud Teams from Ashford, Maidstone, Swale & Tunbridge Wells Councils met in February to discuss emerging Fraud issues. It was agreed that each authority would complete the Chartered Institute of Public Finance & Accountancy (CIPFA) 'Fraud Resilience Evaluation Diagnostic' (FRED1) before meeting again on 8<sup>th</sup> May. Having used this tool to assess the effectiveness of control systems, cumulative knowledge and emerging fraud risks it was agreed that each authority would develop this and use the information obtained to inform the continuous development of the fraud strategy and planning across the organisations. There may be further scope to work together to combat fraud. Some joint exercises on corporate fraud risks will be considered with Kent County Council.
37. Meetings have been set up in June and July with local social Housing Providers to discuss and explore the opportunities of working together on Tenancy Fraud within their stock.
38. All new areas of focus are in line with the National Fraud Authorities recent release 'Fighting Fraud Locally Strategy' (background paper e).

## **Risk Assessment**

39. The work of the Fraud and Visiting Team is vital in the mitigation of risk from fraud and error. The high risk to significant sums paid by the Council in Benefit, the improper use of Council owned properties causing high costs in areas such as Bed & Breakfast and the access to skilled Investigators to ensure that all cases of suspected fraud are investigated swiftly and in line with legislation.

## **Other Options Considered**

40. Not applicable

## **Conclusions**

41. Due to the extent the ongoing changes it would be appropriate to report back in the Autumn, as opposed to leaving it until next year.

## **Portfolio Holder's Views**

30. Not applicable