

AUDIT COMMITTEE
26 NOVEMBER 2013
CORPORATE FRAUD

Report from: Internal Audit

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Summary

To inform Members of matters relating to corporate fraud, including outcomes of investigations and fraud referrals received by Audit Services. This report does not include details of any investigations, which need to be reported as exempt items.

1. Budget and Policy Framework

1.1 It is in the remit of the Audit Committee to take decisions regarding accounts and audit issues.

2. Background

2.1 The Anti-Fraud and Corruption Policy, updated 17 August 2012, forms part of the Council's Constitution and sets out the council's commitment to ensuring the opportunity for fraud and corruption is reduced to the lowest possible risk.

2.2 Prosecutions, cautions and administrative penalties relating to benefits and council tax reductions are reported in **Annex A**, along with a year on year comparison of identified overpayments with the prior two years. This report relates to Quarter 2 of 2013/14.

2.3 Audit Services are responsible for investigating all suspected fraud perpetrated against the council by employees and contractors. **Annex B** provides an update on internal fraud and irregularity investigations. The report includes a record of any control weaknesses identified and management actions put in place to strengthen existing arrangements.

3. National Fraud Initiative (NFI) 2012/13 – Payroll to Benefits data matches

3.1 An Interim Report on the 2012/13 National Fraud Initiative was issued on 11 September 2013 and reported to Members at the 25 September 2013 Audit Committee.

3.2 This is the first NFI exercise where Audit Services have taken the lead on reviewing the housing benefit to Medway payroll matches. All the checks have now been completed and cases warranting further investigation identified.

3.3 The following table details the current status of the two Benefits to Payroll reports: -

Report No	No of Matches	Cases processed	Cases in progress	Frauds	Errors	Overpayments £
13	253	215	38	3	10	£31,813.581
17	192	160	32	0	4	£11,711.57

3.4 The council's strong stance on employee fraud is clearly documented and shared with staff through the Anti-Fraud and Corruption Policy and the Staff Code of Conduct. The Code of Conduct notes that "Acts of fraud or corruption or the use of Council resources for personal gain or the gain of others" is deemed unacceptable. The Code goes on to describe "fraud" through a number of examples including "Being party, directly or indirectly, to claims for benefits to which you or another party is not entitled." The Code is shared with all new employees as part of the induction process, and has recently been shared via the new IT training package "netconsent" which requires staff members to confirm that the Code has been read and understood.

3.5 Ultimately it is the responsibility of the benefit recipient to report any changes that might affect their benefits, but in an effort to reduce the number of instances where members of staff fail to report changes in circumstances to the relevant sections within the council, a reminder was placed on the council's "self-serve4you" HR portal from 10 September 2013. This will act as a reminder that it is the duty of all Medway residents, including any who are Medway Council employees, to inform the relevant department of a change in their circumstances.

3.6 The Fraud Manager is providing fraud awareness training this month to those within the council responsible for administering benefits and will take the opportunity to discuss with them whether the communications from the council to benefit recipients can be enhanced to remind individuals of their responsibilities.

4. Disciplinary issues emanating from investigations

4.1 At agreed key stages Audit Services will share details of their investigation with the relevant Service Manager and Human Resources to allow for appropriate disciplinary action to be considered.

4.2 A number of Medway schools currently purchase external human resources support. In these instances any liaison in relation to disciplinary matters will be conducted between Audit Services and the school head teachers or their nominated managers.

4.3 Where the investigation is being progressed to prosecution and no disciplinary action has been taken by the school Audit Services will alert the Director of Children and Adults Services who will raise the matter with them formally.

4.4 To ensure anonymity is maintained staff investigations relating to External Benefit Fraud will continue to be included on the External Investigations Report at Annex A. This report will not identify the offender as a member of staff.

4.5 Where Medway staff are subject to disciplinary action, as a consequence of an Audit Services investigation, details will be provided to Audit Committee as an exempt item. Generally the disciplinary action would be reported once the criminal matter is concluded.

5. Fraud Hotline

- 5.1 Audit Services have continued to work with the Business Improvement Team to develop processes to support the introduction of the Fraud Hotline (Tel:- 01634 332233) by the end of November 2013.

6. Bribery

- 6.1 The Anti Bribery Policy was presented to the Audit Committee and subsequently approved by Full Council as part of the Council's Constitution in July 2012. Incidents will be reported to the Audit Committee and the Monitoring Officer will provide an annual report to the Committee. The annual report will in future be presented alongside the whistleblowing and money laundering annual report at the July Audit Committee meeting, but I can confirm that to date there have been no incidents to report.

7. Risk Management, Financial and Legal implications

- 7.1 There are no risk management, financial or legal implications arising from this report.

8. Recommendations

- 8.1 Members are asked to note progress in investigating fraud in accordance with the approved Anti Fraud & Corruption Policy.

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Background papers

Sanction Policy (revised 2006) & Anti-Fraud & Corruption Policy (updated August 2012)
Fraud Resilience Strategy 2012/14– last presented to Audit Committee March 2013

External Investigation Outcomes

Table 1 – Benefits & Council Tax Reductions / Discounts - Prosecutions completed in the 2nd Quarter 2013/14
 (Amounts of overpayments outstanding as at 01/11/13)

Prosecutions					
Case ref.	Fraud Type	Fraudulent overpayment £	Period of overpayment or Evasion of liability	Court and sentence	Comment
10938 / 1040716	LT & Failure to declare full time student & student loan income	£13,306.86 (HB/CTB) £5,711.62 (Income Support)	12/10/09 – 12/06/11 06/10/09 – 12/06/11	Medway Magistrates Pleaded guilty to 6 x offences. Sentenced to 90 days prison, suspended for 12 months. £500 Costs. £80 Victim Surcharge.	Medway led investigation, prosecuted by Medway. Housing Benefit overpayment is currently being recovered from ongoing Housing Benefit entitlement at the rate of £17.75pw. The current amount outstanding is £10,835.65.
12138 / 1047367	LT	£20,584.89 (HB/CTB) £7,928.45 (JSA / IS)	01/08/09 – 11/12/11 01/08/09 – 05/12/11	Medway Magistrates Sentenced to 120 days imprisonment suspended for 12 mths and 300 hours community service.	Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service. Housing benefit overpayment was being recovered from on-going benefit at the rate of £18pw. Claimant has recently moved out of the area. An invoice for the outstanding amount of £18,384.83 to be issued. (See linked prosecution ref:- 13432 / 1047367/ CT1)

13432 / 1047367	Aiding & Abetting	HB element of O/P on ref 12138 / 1047367 / CT1 (£18,770.54)	01/08/09 – 11/12/11	Medway Magistrates Sentenced to 200 hours community service to be conducted over 12 months	Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service. Made dishonest representation, in the form of a tenancy document, with a view to allowing partner to obtain Housing Benefit contrary to S111A SSAA (1992) / S8 Accessories and Abettors Act 1861. (See linked prosecution ref:- 12138 / 1047367/ CT1)
12329 / 1028283	LT & WC	£16,983.43 (HB/CTB) £5,878.24 (JSA / IS)	01/10/07 – 23/10/11 12/09/09 – 11/10/11	Dartford Magistrates Sentenced to 12 month Community Order with 240 hours unpaid work plus 60 days imprisonment suspended for 12 months £1000 Costs £80 Victim Surcharge	Medway led investigation, prosecuted by Medway. Pleaded guilty to 6 offences against Medway / DWP of failing to notify a change in circumstances and making false statements in relation to benefit claims. Prior to conviction claimant lodged an appeal against the benefit decision and recovery of the overpayment was suspended. As a consequence of claimant's guilty plea and conviction, the Appeals officer concluded the benefit decision was correct and instructed claimant to repay the HB/CTB overpayments. The full HB & CTB overpayments remain outstanding. The CTB debt has been passed to the Bailiffs for collection and the HB debt will follow. To date none of the £1000 costs awarded by the court have been paid.

12530 / 1048926	Failure to declare Self-Employed income	£6,743.55 (HB/CTB)	07/03/11 – 21/10/12 N/A	Medway Magistrates Sentenced to 12 months Conditional Discharge £200 costs	Medway investigation, prosecuted by Medway. Both the HB & CTB overpayments have been repaid in full.
12648 / 1057093	ND	£4,529.01 (HB/CTB)	14/08/10 – 18/03/12	Medway Magistrates Sentences to 150hrs unpaid work £60 Victim Surcharge £874.50 Costs.	Medway investigation, prosecuted by Medway. Case was adjourned on 3 occasions when defendant failed to attend / required time to consult with her solicitor. Claimant no longer in receipt of benefits. Outstanding HB overpayment passed for Bailiff recovery on 30/09/13.
12725 / 1034099	Failure to declare NHS Pension	£1,294.38 (CTB) £24,050.15 (Pension Credit)	17/11/08 – 25/06/12 07/07/08 – 14/10/12	Medway Magistrates Sentenced to 90 days suspended prison sentence	Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service. The Council Tax overpayment was recharged to account and was subsequently repaid in full.
12845 / 1030521	LT	£19,761.32 (HB/CTB)	01/09/08 – 16/10/12	Medway Magistrates Sentenced to 1yr Community Order of 200 hours. £60 Victim Surcharge. £947.50 Costs to be repaid at £50 pm	Medway investigation, prosecuted by Medway. No longer in receipt of benefit. HB overpayment being repaid at the rate of £100pcm. The current balance outstanding is £16,400.

12886 / 86539	CAP	£7,115.09 (CTB) £34,094.43 (Pension Credit)	10/01/05 – 14/10/12 04/01/05 – 29/07/12	Medway Magistrates Sentenced to 56 days imprisonment suspended for 12 months £80 Victim Surcharge £85 Costs	Department for Work and Pensions led investigation, prosecuted by Crown Prosecution Service. The Council Tax overpayment was recharged to account and was subsequently repaid in full.
13048 / GI1379	CAP	£6,475.34 (HB/CTB) £5,636.29 (IS)	12/07/10 – 02/12/12 30/06/05 – 26/11/12	Medway Magistrates Sentenced to a 3month conditional discharge £85 Costs	Department for Work and Pensions led investigation, prosecuted by Crown Prosecution Service. Both the HB & CTB overpayments have been repaid in full.
13052 / 1060508	WC	£5,572.68 (HB/CTB) £4,477.80 (JSA)	08/08/11 – 23/09/12 03/08/11 – 25/09/12	Medway Magistrates Sentenced to a 12mth Community Order to carry out 250 hours of unpaid work.	Department for Work and Pensions led investigation, prosecuted by Crown Prosecution Service. HB overpayment is currently being recovered from on-going benefit at the rate of £18pw. The current balance outstanding is £4,356.75.
13157 / 1049537	Failure to declare increased earnings	£5,955.76 (HB/CTB)	16/08/10 – 31/03/13	Medway Magistrates Sentenced to 12mths Conditional Discharge. £500 costs.	Medway investigation, prosecuted by Medway. HB overpayment is currently being recovered from on-going benefit at the rate of £18pw. The current balance outstanding is £5,695.07.
Totals (£)		£108,322.31 (HB/CTB) £87,776.98 (DWP)			

Table 2 – Benefits & Council Tax Reductions / Discounts – Cautions issued in the 2nd Quarter 2013/14
 (Amounts of overpayments outstanding as at 04/11/13)

Cautions					
Case ref.	Fraud Type	Fraudulent overpayment £	Period of overpayment or Evasion of liability	Date Caution accepted	Comment
12689 / 105043 3	False declaration	£580.20 (HB)	16/12/11 – 16/01/12	05/08/13	Medway led investigation. There was an additional overpayment identified as a consequence of the investigation which relates to another previously undisclosed change in circumstances. The combined overpayment is being recovered from on-going benefit at the rate of £10.80pw. The current balance outstanding is £11,976.70.
12866 / 100647	LT & a failure to declare partner started work	£661.07 (CTB)	09/04/12 – 06/01/13	31/07/13	Medway investigation. This was a Council Tax Benefit only case. The overpayment was recharged to the Council Tax. As a consequence of the investigation Single Person Discount was also removed from the Council Tax Liability.
12972 / 79598	WC	£370.60 (HB/CTB)	03/09/12 – 16/12/12	31/07/13	Medway investigation. Housing Benefit overpayment was recovered in full from on-going benefit. See 13324 / 79598 / CT1. Both claimant and partner were issued with Simple Cautions in relation to their failure to declare the change in circumstances.

13324 / 79598	Knowingly causing or allowing	See above	See above	31/07/13	Medway investigation. See 12972 / 79598 / CT1. Both claimant and partner were issued with Simple Cautions in relation to their failure to declare the change in circumstances.
13011 / 56376	LT	£681.78 (HB/CTB)	15/11/10 – 10/04/11	16/07/13	Medway investigation. Housing benefit overpayment is currently being recovered at the rate of £10.80pw. The balance outstanding is £516.40.
13109 / 104893 7	WC	£2,829.60 (HB/CTB) £1,704.26 (JSA)	04/04/10 – 07/08/11 01/04/11 – 05/08/11	12/07/13	Department for Work and Pensions led investigation. Claimant accepted a Medway Simple Cautions and a DWP Administrative Penalty @ 30% of the JSA overpayment (as no longer DWP policy to offer claimants Cautions). Housing Benefit overpayment is currently being recovered at the rate of £10.80pw. The current balance outstanding is £2,423.16.
13131 / 102729 9	WC	£667.55 (HB/CTB) £406.35 (IS)	10/09/12 – 11/11/12 04/09/12 – 05/11/12	22/08/13	Department for Work and Pensions led investigation. Claimant accepted a Medway Simple Cautions and a DWP Administrative Penalty @ 30% of the JSA overpayment (as no longer DWP policy to offer claimants Cautions). Claimant is no longer in receipt of benefits. On 15/08/13 made an arrangement to repay the debt at rate of £10pw, starting 01/09/13. As claimant failed to keep to this arrangement debt has now been passed to the Bailiffs.
Total		£5,790.80 (HB/CTB) £2,110.61 (DWP)			

Table 3 – Benefits & Council Tax Reductions / Discounts – Administrative Penalties issued in the 2nd Quarter 2013/14

Administrative Penalties					
Case ref.	Fraud Type	Fraudulent overpayment £	Period of overpayment or Evasion of liability	Date Administrative Penalty issued	Comment
13160 / 1031600	Failure to declare increase in earnings	£3,518.49 (HB/CTB)	09/01/12 – 31/03/13	12/07/13	Medway Investigation. The Administrative Penalty added £1,055.54 to the debt (30% to the overpayment). The Housing Benefit overpayment and Penalty are being recovered from on-going benefit at the rate of £18pw. The current balance outstanding is £3,819.39.

Table 4 – Benefits, Council Tax Reduction and Single Person Discount overpayments identified and recorded by the Corporate Anti-Fraud Team during the 2nd Quarter 2013/14 – With comparison to the same quarter in previous financial years.
(The figure in brackets denotes the number of cases with identified overpayments).

Types of overpayment	2nd Qtr 2011/12 £	2nd Qtr 2012/13 £	2nd Qtr 2013/14 £
Housing & Council Tax benefit (HB/CTB)	£156,511.28	£134,192.67	£159,750.20
Single Person Discount (SPD)	0	0	0
DWP benefits	£31,811.71	£54,726.10	£159,203.97
Other (e.g. Tax Credits)	0	0	0
Totals	£188,322.99	£188,918.77	£318,954.17

Key: -

Clmt Claimant

LT Living together as husband & wife

WC Working & claiming

CAP Failure to declare capital

ND Non Dependent

CofC Failure to report a change in circumstances

Inc Failure to declare income

QB9 Employer prosecuted for failing to supply information requested under Social Security Legislation.

SPD Single Person discount

Note re costs – Medway no longer receives details of Costs awarded where Crown Prosecution Service undertake proceedings on behalf of DWP / Medway Council.

INTERNAL FRAUD AND IRREGULARITY INVESTIGATIONS

Audit Services are responsible for undertaking investigations into possible fraudulent activity by members of council staff and contractors. Referrals requiring investigation by Audit Services are received from managers across the council or through the whistleblowing arrangements. In addition some investigations arise as a direct result of internal audit work.

Audit Services conduct an initial assessment of the case in order to determine whether an investigation is required. In some instances the referral will require nothing more than the provision of advice to management, who may be required to investigate the matter further, in compliance with the council's disciplinary policy. In some cases Audit Services undertake a full investigation, which may result in disciplinary and/or criminal proceedings.

There is an investigation protocol between Audit Services and HR which sets out how the respective roles of the two teams when undertaking investigations into suspected employee fraud. The protocol was agreed in 2013 and has resulted in an increased number of referrals to Audit Services.

The table below sets out the completed internal fraud and irregularity investigations undertaken, and advice provided, since the last report presented to Audit Committee (excluding those cases which have to be reported as a restricted item, in line with Data Protection Act requirements). The table includes a summary of control weaknesses identified and management actions agreed.

Referral	Audit Services	Finding	Control Improvements
St Peter's Infant School – loss/theft of income	Minor investigation and advice	'After school club' income tin identified to be missing from safe on morning of Thursday 3.10.13; last confirmed sighting was at end of the previous Monday. Total missing recorded as £1,560, but amount of cash involved not known as payment method not recorded (£345 has been recovered through replacement cheques) - amount was higher than normal as payments are made only at start of term and income had not been banked since 17.9.13 as two members of staff not available previous week. Police notified and crime reference number issued, but no further	Headteacher has introduced revised processes to minimise risk of recurrence, including: <ul style="list-style-type: none"> • reinforcing procedures for safe to be relocked after removing/replacing items from/into it; • ordering lockable cash boxes for retaining income received; • purchasing key safe to facilitate secure storage of safe key; • banking income received promptly,

Referral	Audit Services	Finding	Control Improvements
		<p>investigation being undertaken. Staff believe safe may have inadvertently been left open while distracted by parents in the office purchasing uniform on that morning, only other possibility is that someone gained access to the safe key, which was retained in unlocked drawer in HT's office, at some point after Monday of that week.</p>	<p>regardless of whether a second staff member is available;</p> <ul style="list-style-type: none"> • recording method of payment on income spreadsheet.
<p>Parklands Resource Centre</p>	<p>Minor investigation and advice</p>	<p>In August 13 the imprest cash was reconciled to the receipts and local transaction records and the account balance was out by £91.13. Local Management initially investigated the matter, and then reported it to Finance who conducted further investigation work. The matter was subsequently referred to Audit Services.</p> <p>The delay in the matter being reported and the work carried out by both local and finance management impaired the efficacy of any audit investigation.</p> <p>For the relevant period a number of staff had responsibility for the imprest account, making it difficult to determine who accessed funds. Furthermore some of these members of staff had had no training or guidance regarding imprest management.</p> <p>The investigation did not provide any evidence as to what has happened to the £91.13</p>	<p>Referrals to Finance regarding imprest account losses requiring investigation will be referred immediately to Audit Services.</p> <p>The Centre Manager has revised processes in order to minimise the risk of recurrence, including:</p> <ul style="list-style-type: none"> • Ensuring staff covering imprest account use have had appropriate training and guidance; • Allocating imprest cover to one officer instead of a pool of officers; • Increasing frequency of reconciliation of cash to expenditure records, ensuring these are completed at least weekly and at handover; • Ensuring two officers are present when cash is counted; • Storing the imprest cash tin in the safe and ensuring the safe key is not kept on site.