

# AUDIT COMMITTEE

24 SEPTEMBER 2015

## CORPORATE FRAUD

Report from: Katey Arrowsmith, Head of Internal Audit and Counter Fraud  
Author: Janice Wellard, Fraud Manager

### 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 that need to be reported as exempt items.**

### 1. Budget and Policy Framework

1.1 Council delegates responsibility for the oversight and monitoring of audit services to the Audit Committee.

### 2. Background

2.1 The Anti-Fraud and Corruption Policy forms part of the 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 Appendix A, along with a comparison of 1st quarter overpayments identified during the previous two years. This report relates to Quarter 1 of 2015/16.

2.3 Audit Services are responsible for investigating all suspected fraud perpetrated against the council by employees and contractors. Appendix 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. Disciplinary issues emanating from investigations

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

3.2 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. In this case there are none to report.

#### **4. National Fraud Initiative (NFI) 2014/15 – Update**

- 4.1 The main National Fraud Initiative is a biennial data matching exercise administered by the Cabinet Officer since the closure of the Audit Commission in March 2015.
- 4.2 The 2014/15 exercise commenced in October 2014 when participating public bodies, including all English and Welsh Councils, submitted their data sets for matching. The bulk of data matches were released to participating bodies in January 2015.
- 4.3 It should be noted that while matches released represent data that could indicate a fraud, matches also arise from a variety of other reasons such as timing differences in data held by different bodies, data quality issues and errors. In 2013 the Audit Commission estimated that around 5% of data submitted resulted in a match being returned to local authorities.
- 4.4 Audit Services have supported individual services in completing both the initial sift of matches and the subsequent investigation of irregularities.
- 4.5 The 9,094 matches were grouped into 75 reports, defined by the source and quality of data. Sifting continues in line with Cabinet Office guidance.
- 4.6 The Cabinet Office defined 18 of the 75 reports as “Key”. There were given priority and to date 3 (17%) have been completed, 13 (72%) remain in progress with 2 (11%) still to be started.
- 4.7 The Cabinet Office denoted 2,893 of the 9,094 individual matches as “Recommended”. Audit Services prompted individual services to give these priority and to date 561 have been opened.
- 4.8 In total 21 reports (28%) have been completed, 39 reports (52%) are in progress, with 15 reports (20%) unopened.
- 4.9 To date a total of £115,110 in Department for Work and Pensions Benefits, Housing Benefit, Council Tax Benefit and Council Tax Reduction savings have been identified in the Medway 2014/15 National Fraud Initiative.
- 4.10 The Council Tax to SPD matching is now an annual NFI exercise. Single Person Discount and “Rising 18” information was matched against Electoral Registration records via the NFI Flexible Matching Service (FMS) web application. Data submitted on 16 December 2014 was processed and returned on the same day.
- 4.11 A total of 2,091 matches were made available to the council to investigate. Of these 1,393 have been processed, 46 are in progress. There are around 34,000 properties in Medway in receipt of a Single Person Discount (from a total of 113,000 properties) so these matches represent around 6% of those accounts.
- 4.12 To date the exercise has identified a total of 90 Council Tax discount errors with a value of £16,105.33.

## **5. Benchmarking**

- 5.1 At the July 2014 meeting of the Audit Committee, Members asked how the level of fraud detected and performance of the team at Medway compares to others. Audit Services are currently exploring options to benchmark the work of the team against that of other local authorities in future. We will look to incorporate benchmarking data into future reports to Audit Committee in due course.

## **6. Risk management**

- 6.1 This report, summarising the work of the counter fraud function, provides a key source of assurance for the council on the adequacy and effectiveness of its arrangements to respond to fraud risk.

## **7. Financial implications**

- 7.1 An adequate and effective internal counter fraud function provides the council with assurance on the proper, economic, efficient and effective use of council resources in delivery of services, as well as helping to identify fraud and error that could have an adverse effect on the financial statements of the council.

## **8. Legal implications**

- 8.1 The Local Government Act 1972 provides the Council with the ability to investigate and prosecute offences committed against them. Section 151 of the Local Government Act 1972 requires the council to “make arrangements for the proper administration of their financial affairs”. Funding received via a Central Government Administration Grant requires Local Authorities to maintain arrangements to prevent fraud and error in the welfare benefits that they administer.

## **9. Recommendations**

- 9.1 Members are asked to note progress in investigating fraud in accordance with the approved Anti-Fraud & Corruption policy.
- 9.2 Members are asked to note progress in the National Fraud Initiative.

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### **Appendices**

Appendix A External investigation outcomes.

Appendix B Internal investigation outcomes.

## **Background papers**

Sanction Policy (revised 2006) & Anti-Fraud & Corruption Policy (updated August 2012). Fraud Resilience Strategy 2014/16 – presented to Audit Committee March 2014 and updated in September 2014 and March 2015.

## External Investigation Outcomes

**Table 1 – Benefits & Council Tax Reductions / Discounts - Prosecutions completed in the 1st Quarter 2015/16**

(Amounts of overpayments outstanding as at 25/08/15)

Prosecutions					
Case ref.	Fraud Type	Fraudulent overpayment £	Period of overpayment or Evasion of liability	Court and sentence	Comment
13000 / 1050786	LT	£7,454.97 (HB)	28/02/11 – 20/01/13	Medway Magistrates	Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service.  The defendant has failed to repay any of the £7,454.97 HB overpayment and / or respond to recovery correspondence. Her partner has recently made a new HB claim. As he was resident at the time the O/P occurred it is possible to commence deductions from his on-going entitlement at the rate of £18.50pw.
		£2,284.54 (CTB)	28/02/11 – 20/01/13	Found guilty of: 2 x Medway offences 1 x DWP offences	
		£6,709.10 (IS)	28/02/11 – 17/01/13	Sentenced to: 12 months medium level community work order.  £500 Costs.	
13107 / 1045780	W&C	£2,143.76 (HB)	04/06/12 – 20/01/13	Medway Magistrates	Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service.  The claimant is no longer in receipt of DWP or Medway benefits. Customer is currently maintaining an arrangement to repay the Housing Benefit overpayment at the rate of £40pcm. The current amount outstanding is £1,240.00.
		£474.61 (CTB)	04/06/12 – 20/01/13	Found guilty of: 2 x Medway offences 2 x DWP Offence	
		£2,229.65 (IS)	29/07/11 – 17/01/13	Sentenced to: 6 months community order and 8pm – 6am curfew.	
		£993.65 (Carers Allowance)	24/09/12 – 20/01/13		

13329 / 1047409	ND	<p>£5,598.95 (HB)</p> <p>£537.59 (CTB)</p> <p>£211.70 (CTR)</p>	<p>06/12/10 – 27/10/13</p> <p>06/12/10 – 31/03/13</p> <p>01/04/13 – 27/10/13</p>	<p>Medway Magistrates</p> <p>Pleaded guilty to: - 3 x Medway offences</p> <p>Sentenced to: 12 months Community Order with requirement to undertake 120hrs unpaid work. £400 Costs. £60 Victim Surcharge.</p>	<p>Medway led investigation and prosecution.</p> <p>The investigation related to claimants failure to report changes in her 2 x Non-Dependants income. The total Housing Benefit / Council Tax Benefit / Council Tax Reduction overpayment identified during the investigation was £8,948.85, of this £6,348.24 was considered fraudulent. The entire amount is deemed recoverable.</p> <p>The investigation also identified £211.70 in Council Tax Reduction for period 01/04/13 – 27/10/13 that was not included in the Crown Prosecution Service prosecution.</p> <p>Housing Benefit overpayment is currently being recovered from on-going entitlement at the rate of £18.50per week. The total amount outstanding is £7,679.40.</p>
13381 / 1063828	LT	<p>£10,731.67 (HB)</p> <p>£1,031.67 (CTB)</p> <p>£13,372.84 (IS)</p> <p>£33,415.89 (Tax Credit)</p>	<p>01/12/11 – 16/05/13</p> <p>01/12/11 – 31/03/13</p> <p>28/07/09 – 16/05/13</p> <p>28/07/09 – 05/03/14</p>	<p>Medway Magistrates</p> <p>Found guilty of: - 2 x Medway offences 1 x DWP offence 1 x HMRC (Tax Credit) offence</p> <p>Sentenced to: 60 days imprisonment, suspended for 12 months with following requirements: - 3 month curfew / participate in a “Women’s Programme” for 12 months. £85 costs. £100 Victim Surcharge.</p>	<p>Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service.</p> <p>Defendant failed to attend first hearing on 13/03/15 and a warrant with bail was issued. The warrant was executed on 30/04/15 when she was arrested and bailed to attend court on 05/05/15. She was re-bailed to attend on 08/06/15 when sentencing took place.</p> <p>The investigation also identified £74.48 in Council Tax Reduction for period 01/04/13 – 16/05/13 that was not included in the Crown Prosecution Service prosecution.</p> <p>Claimant has failed to repay any of the HB overpayment. No longer in receipt of Medway or DWP benefits. The recovery team have recently identified a potential employer and have applied for a Direct Earnings Attachment (DEA) to recover the outstanding £10,731.67 Housing Benefit debt.</p>

13392 / 1037490	LT	£55,102.90 (HB) £6,650.00 (CTB) £31,836.77 (IS)	30/01/06 – 22/12/13 30/01/06 – 31/03/13 27/10/05 – 06/12/13	Maidstone Crown Court  Found guilty of: - 2 x Medway offences 1 x DWP offence  Sentenced to: 6 months prison, suspended for 2years. No costs applied for or awarded. £80 Victim Surcharge.	Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service.  The investigation also identified £1,282.97 in Council Tax Reduction plus a further £608.00 in Discretionary Housing Payment, neither of which were included in the Crown Prosecution Service prosecution.  The Housing Benefit overpayment is currently being recovered from on-going benefit at the rate of £18.50 per week, with an outstanding balance of £53,987.07.
13512 / 1057377	W&C	£9,073.19 (HB) £2,486.21 (CTB) £1,860.87 (JSA) £17,015.39 (IS)	27/08/08 – 06/10/13 27/08/08 – 06/10/13 21/03/13 – 29/09/13 01/04/08 – 20/03/13	Chatham Magistrates Court  Found guilty of: - 1 x Medway offence 2 x DWP offences  Sentenced to: - 120 days prison, suspended for 12months. 90 day curfew and tag and 150 hours Community Punishment Order.	Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service.  The investigation also identified £90.35 in Council Tax Reduction for period 01/04/13 – 06/10/13 that was not included in the Crown Prosecution Service prosecution.  The Housing Benefit overpayment is currently being recovered from on-going benefit at the rate of £18.50 per week. The current balance outstanding is £8,435.73.
13550 / 1060285	LT	£5,117.25 (HB) £631.41 (CTB) £5,437.24 (IS)	03/09/12 – 16/02/14 03/09/12 – 31/03/13 01/09/12 – 15/02/14	Medway Magistrates  Pleaded guilty to: - 2 x Medway offences 1 x DWP offences  Sentenced to: - 150 hours unpaid work. £85 Costs.	Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service.  The investigation identified £585.87 in Council Tax Reduction for period 01/04/13 – 23/02/14 that was not included in the Crown Prosecution Service prosecution.  The investigation also identified a further Housing Benefit overpayment of £4,934.37 and Council Tax Benefit overpayment of £282.37. These were not included in the

					<p>prosecution due to concerns expressed by DWP regarding delays to the prosecution.</p> <p>There was in addition a further outstanding Housing Benefit overpayment, identified before the investigation commenced.</p> <p>The total outstanding Housing Benefit debt is therefore £11,763.62.</p> <p>Claimant is no longer entitled to Housing Benefit. Immediately prior to the Court Hearing she entered into an arrangement to repay the Housing Benefit debt at the rate of £100 per month. She has failed to keep to this arrangement; consequently the debt has been passed to the Bailiffs for collection.</p>
13625 / 1031695	CofC	<p>£7,441.36 (HB)</p> <p>£1,349.47 (CTB)</p> <p>£373.60 (CTR)</p>	<p>07/11/11 – 24/11/13</p> <p>07/11/11 – 31/03/13</p> <p>01/04/13 – 15/09/14</p>	<p>Medway Magistrates</p> <p>Found guilty of: - 3 x Medway offences</p> <p>Sentenced to: - 3 year Conditional Discharge. £500 costs. £15 Victim surcharge.</p>	<p>Medway led investigation and prosecution.</p> <p>Claimant was no longer entitled to Housing Benefit. He made an arrangement to repay the debt, but stopped paying after one payment. The total Housing Benefit debt currently outstanding is £8,800.57 (which includes the balance of a previous overpayment). He has recently submitted a new claim (received 10/08/15) which if entitled might allow for recovery from on-going benefit.</p>
13626 / 1048513	WC	<p>£4,292.15 (HB)</p> <p>£3,248.43 (JSA)</p> <p>£1,813.83 (ESA)</p>	<p>15/10/12 – 02/03/14</p> <p>11/10/12 – 26/02/14</p> <p>07/01/13 – 03/07/13</p>	<p>Medway Magistrates</p> <p>Found guilty of: - 1 x Medway offence 3 x DWP offences</p> <p>Sentenced to: - 16 weeks imprisonment suspended for 12 months. £85 Costs. £80 Victim surcharge.</p>	<p>Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service.</p> <p>The Housing Benefit overpayment is currently being recovered from on-going benefit at the rate of £18.95 per week. The outstanding balance remaining is £2,399.60.</p>



13660 / 1058426	LT	<p>£10,843.37 (HB)</p> <p>£1,525.62 (CTB)</p> <p>£1,237.43 (JSA)</p> <p>£862.14 (ESA)</p> <p>£7,461.97 (IS)</p>	<p>11/04/11 – 07/04/13</p> <p>11/04/11 – 31/03/13</p> <p>16/09/12 – 08/01/13 07/05/13 – 13/05/13</p> <p>09/01/13 – 03/04/13</p> <p>20/06/10 – 07/09/12</p>	<p>Medway Magistrates</p> <p>Found guilty of: - 2 x Medway offences 3 x DWP offences</p> <p>Sentenced to: - 16 weeks imprisonment suspended for 18 months with 120 hours unpaid work.</p>	<p>Department for Work and Pensions led prosecution, prosecuted by Crown Prosecution Service.</p> <p>The investigation identified £13.50 in Council Tax Reduction for period 01/04/13 – 07/04/13 that was not included in the Crown Prosecution Service prosecution.</p> <p>The Housing Benefit overpayment is currently being recovered from on-going benefit at the rate of £18.50 per week. The outstanding balance remaining is £10,231.80.</p>
<b>Totals (£)</b>		<p>£ 117,799.57 (HB)</p> <p>£16,971.12 (CTB)</p> <p>£585.30 (CTR)</p> <p>£33,415.89 (Tax Credit)</p> <p>£94,079.31 (DWP)</p> <p><b>£262,851.19</b></p>			

**Table 2 – Benefits & Council Tax Reductions / Discounts – Cautions issued in the 1st Quarter 2015/16**  
 (Amounts of overpayments outstanding as at 25/08/15)

<b>Cautions</b>					
<b>Case ref.</b>	<b>Fraud Type</b>	<b>Fraudulent overpayment £</b>	<b>Period of overpayment or Evasion of liability</b>	<b>Date Caution accepted</b>	<b>Comment</b>
14181 / 1052037	CofC	£1,111.27 (HB)	14/07/14 – 21/12/14	28/04/15	Housing Benefit overpayment was being recovered from on-going benefit; however claim was cancelled from 28/06/15 when customer moved home. She is currently appealing the decision to recover the outstanding amount of £707.07.
		£237.51 (CTR)	14/07/14 – 31/03/15		

**Table 3 – Benefits & Council Tax Reductions / Discounts – Administrative Penalties issued in the 1st Quarter 2015/16**  
 (Amounts of overpayments outstanding as at 25/08/15)

<b>Administrative Penalties</b>					
<b>Case ref.</b>	<b>Fraud Type</b>	<b>Fraudulent overpayment £</b>	<b>Period of overpayment or Evasion of liability</b>	<b>Date Administrative Penalty issued</b>	<b>Comment</b>
14178 / 1047901	CofC	£2,511.68	01/06/13 – 04/01/15	28/05/15	The claimant is keeping to an arrangement to repay the Housing Benefit overpayment at the rate of £20 per month. The balance outstanding is £2,380.00.  The Adpen of £1,255.84 will be recovered once the Housing Benefit overpayment is recovered in full.

**Table 4 – Benefits, Council Tax Reduction and Single Person Discount overpayments identified and recorded by the Corporate Anti-Fraud Team during the 1st Quarter 2015/16 – With comparison to the same quarter in previous financial years.**

<b>Types of overpayment</b>	<b>1<sup>st</sup> Quarter 2013/14 £</b>	<b>1<sup>st</sup> Quarter 2014/15 £</b>	<b>1<sup>st</sup> Quarter 2015/16 £</b>
Housing Benefit (HB)	75,166	178,813	108,416
Council Tax Benefit (CTB)	18,066	12,102	9,653
Council Tax Reduction (CTRS)	0	4,547	12,068
Single Person Discount (SPD)	0	2,385	5,255
Other Council Tax Discounts	0	0	1,479
Discretionary Housing Payment (DHP)	0	1,508	0
DWP benefits e.g. JSA / IS / ESA	74,456	144,797	45,731
Pension Credit (PC)	0	0	9,583
Other (e.g. Tax Credits)	13,169	23,963	21,678
Social Care	0	0	0
<b>Totals</b>	<b>180,857</b>	<b>368,115</b>	<b>213,863</b>

**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.
- FR False representation
- FT False tenancy
- SPD Single Person discount
- HB Housing Benefit
- CTB Council Tax Benefit
- CTR Council Tax Reduction

**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 Involvement	Finding	Control Improvements
<u>Attempted cheque fraud</u> Identified during standard bank reconciliation pre-payment exercise conducted by Control Team Leader.	Advice / review of controls.	1 x fraudulent cheque, with a face value of £7,895, presented for payment, but not paid.  Bank Fraud team notified.	None.