

## AUDIT & STANDARDS COMMITTEE

3 February 2020

<b>Title:</b> Counter Fraud 2019/20 Q1 - Q3 (April to December 2019) and Counter Fraud Policies & Strategy Report	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Kevin Key, Counter Fraud Manager	<b>Contact Details:</b> Tel: 020 8227 2850 E-mail: <a href="mailto:Kevin.Key@lbbd.gov.uk">Kevin.Key@lbbd.gov.uk</a>
<b>Accountable Director:</b> Claire Symonds, Chief Operating Officer	
<b>Summary:</b>  This report brings together all aspects of counter fraud work undertaken to the end of Q3 of 2019/20. The report details progress and results to 31 December 2019. To ensure proper arrangements to administer the Council's financial affairs, the Council has adopted key policies and a strategy to combat fraud and irregularity. These policies were approved by Cabinet and to further strengthen their importance, as part of robust governance, recommended for review annually.	
<b>Recommendation:</b>  Members are asked to:  (i) Note the contents of the report and the Council's updated Counter Fraud Policies and Strategy; and  (ii) Commend its principles to school governing bodies, and where appropriate to other stakeholders, including partnerships, arm-length organisations, and to contractors.	

### 1. Summary of counter fraud work undertaken to Quarter 3 2019/20

1.1 The tables below indicate the level of work completed in the two separate areas for which the team are responsible; Housing and Corporate Fraud.

### 2. Corporate Fraud Activity including Whistleblowing

2.1 The update on corporate fraud activity for Quarter 3, along with the yearly totals, is set out below. The team receives many referrals throughout each quarter and log and assess each case independently. A decision is then made as to what the best course of action is to deal with the referral. This means either the team will open an investigation, refer to another service block of the council or arrange for the matter to be referred to a specific manager for action.

2.2 Fraud referrals to date incl. whistleblowing:

	18/19 Total	Q1	Q2	Q3	19/20 Total
Cases Outstanding from last quarter		8	8	4	
Referrals received in Period	246	46	50	52	148
Cases accepted for investigation	43	15	11	8*	34
No further Action after initial review/already known	28	14	5	4	23
Referred to other service block within LBBD	165	17	34	40	91
DPA, FOI, and other information provided	76	11	14	12	37
Cases closed following investigation	38	15	15	7	37
<b>Ongoing Corporate Fraud Investigations:</b>		8	4	5	

*\*includes 2 referrals to Action Fraud*

2.3 The data demonstrates what action is being taken on every referral received. We have also added to the outcomes section referrals made directly to the Police/Action Fraud.

2.4 The referrals received relate to the number of cases that are sent through to the Fraud email inbox or where contact is made directly with members of the team. All contact is logged and assessed accordingly. Many referrals are sent through in the belief that fraud has been committed, but following assessment found to be better dealt with elsewhere.

2.5 We receive requests that relate specifically to CCTV, Subject Access, Freedom of Information and Data Protection as well as referrals relating to Housing Benefits, Council Tax, Department for Work & Pensions, Complaints, Parking Enforcement, Housing services, noise nuisance, Housing Association properties, Planning, Private Sector Licencing, Police matters and Trading Standards. In short, if there is a possible consideration of fraud we are likely to have received a referral either via email or phone.

2.6 Outcomes to date and yearly total 2019/20

	18/19 Total	Q1	Q2	Q3	19/20 Total
Recommended for disciplinary process/New cases as a result	3	1	1	0	2
Referred for Management action	10	6	3	3	12
No fraud/No further action	10	5	7*	2	14*
Referred to Police/Action Fraud		3	4	2	9

*\*includes 2 cases where no fraud identified but serious concerns raised with procurement process – Internal Audit to review.*

### **3. Current / future key issues– Corporate**

- 3.1 In relation to the remaining staff member, formally employed by Be First, final checks are being completed to establish whether there is enough evidence and justification to proceed with a criminal prosecution.
- 3.2 There have been further attempted cyber scams reported to the team. Staff appear to be referring the matter to the team which would suggest the publicity and work undertaken in Quarters 1 & 2 has worked in raising the profile of this issue.
- 3.3 The National Fraud Initiative results have recently been updated; a detailed breakdown of the results will be provided in a later report, however there has not been any substantial fraud identified yet.

### **4. Regulation of Investigatory Powers Act**

- 4.1 The Regulation of Investigatory Powers Act regulates surveillance powers, thus ensuring robust and transparent frameworks are in place to ensure its use only in justified circumstances. It is cited as best practice that Senior Officers and Members maintain an oversight of RIPA usage.
- 4.2 The last inspection of RIPA was undertaken by the Office of Surveillance Commissioners in December 2016. The report was favourable, and all recommendations subsequently implemented. In September 2017 The Investigatory Powers Commissioner's Office took over responsibility for oversight of investigatory powers from the Interception of Communications Commissioner's Office (IOCCO), the Office of Surveillance Commissioners (OSC) and the Intelligence Services Commissioner (ISComm).
- 4.3 The current statistics are set out below following review of the central register, held by the Counter Fraud Manager. As per previous guidelines, RIPA authority is restricted only to cases of suspected serious crime and requires approval by a Magistrate.
  - (a) Directed Surveillance  
The number of directed surveillance authorisations granted during Quarter 3 October 2019 – December 2019 and the number in force at 31 December 2019  
  
Nil granted. Nil in Force.
  - (b) Communications Information Requests  
The number of authorisations for conduct to acquire communications data (e.g. mobile phone data) during Quarter 3 October – December 2019  
  
Nil granted. Nil in force.
- 4.4 LBBD have been scheduled to have a RIPA inspection on 23 July 2020. The Inspector has requested to meet with the SRO and at least one Authorising Officer. Arrangements have been made and officers requested to be available on this date.

- 4.5 Training will be undertaken for RIPA throughout January, February and March and once completed will form an update to the RIPA Policy scheduled for June 2020.
- 4.6 Following the training, arrangements will be made to publicise to all staff (through the staff briefing, managers' briefing and screen background) the appropriate use of any surveillance being undertaken and the process to be followed. This should ensure LBBDD are in the best position for when the RIPA inspection is undertaken.

## 5. Housing Investigations

- 5.1 Members are provided specific details on the outcomes from the work on Housing Investigations. For 2019/20, outcomes are set out below.
- 5.2 2019/20 Housing Investigations to date:

<b>Caseload</b>	18/19 Total	Q1	Q2	Q3	19/20 Total
Open Cases brought forward		22	29	26	
New Cases Added	166	39	36	29	104
Cases Completed	154	32	39	34	105
Open Cases		29	26	21	

<b>On Going Cases - Legal Action</b>	Q1	Q2	Q3
Notices Seeking Possession served	1	0	0
No of Cases - Recovery of property	4	4	4

<b>Outcomes - Closed Cases</b>	18/19 Total	Q1	Q2	Q3	19/20 Total
Convictions	0	0	0	0	0
Properties Recovered	14	0	3	1	4
Successions Prevented & RTB stopped/agreed	15	7	12	13	32
Savings (FTA, Single Person CTax, RTB, Decant)	£1,075,995	£208,000	£310,826	£556,200	£1,075,026
Other Potential Fraud prevented/passed to appropriate service block incl Apps cancelled	58	8	12	8	28
Referral to others outside of LBBDD	1	0	0	0	0
No further action required/insufficient evidence	66	17	12	12	41

- 5.3 In addition to the above other checks are routinely carried out and information provided to others. Below is an indication of the level of work undertaken:

	Q1	Q2	Q3	19/20 Total
Data Protection Requests	8	10	6	24
Education Checks	84	143	108	335

(n.b. education checks relate to assisting admissions in locating children or families to free up school places or confirm occupancy. Data Protection Requests are received from other local authorities, the police, and outside agencies and responses provided in accordance with GDPR).

## 6. Current / future key issues to be considered – Housing

- 6.1 Right to Buy money laundering checks have increased and are undertaken to ensure the source of any cash purchase element of a Right to Buy is from a reputable source. The team have also begun allowing the RTB team to shadow them on visits to show the officers the type of issues that come up and how they can be resolved.
- 6.2 Work is ongoing to complete a full data match for housing stock through CallCredit. The Housing Investigation Team will lead on the work once the matches are returned to us and work closely with colleagues in My Place to deal with any tenancy issues highlighted.

## 7. Policies

- 7.1 The Assurance & Counter Fraud Group maintains a suite of counter fraud policies and a strategy to support the Council's strong stance against fraud, thus maintaining proper arrangements for the Council's finances and assets.
- 7.2. The policies were approved by Cabinet in January 2012 in line with the Council's robust stance on governance and are to be reviewed annually by the Audit and Standards Committee. This report sets out the latest versions and a summary of their purpose. Following review, there have been changes made to the policies to reflect the evolving nature of the Council as well as reference made in the Whistleblowing Policy to the Modern Slavery Act 2015. Changes to the Regulation of Investigatory Powers Policy will also need to be made following officer training during 2019/20.
- 7.3. These policies apply to all officers of the Council. In the spirit of raising fraud awareness they will also be promoted to and where applicable applied by the Council's partners such as Elevate, the wholly/partially owned firms, contractors and schools.
- 7.4 A brief description of the purpose of each policies/strategy is set out in the table below. The latest version is set out in the Appendices to this report.

Appendix	Document	Brief Description
A	Counter Fraud Strategy	Sets out the Council's commitment to reducing opportunities for fraud and corruption across all council services and taking the strongest possible action against those who seek to defraud the Council.
B	Counter Fraud Policy including Fraud Response Plan	Sets out how the Council responds to fraud and the changing risk profile of fraud and Includes guidance on what to do if an employee suspects fraud.
C	Prosecution Policy	Sets out the Council's approach to seeking redress/sanction against those who seek to defraud the Council, linking to the Disciplinary rules where the perpetrator is a member of staff
D	Money Laundering Policy	Sets out the Council's commitment to ensuring compliance with the requirements of the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 & 2012 and Chartered Institute of Public Finance and Accountancy (CIPFA) guidance for Local Authorities on Money Laundering.
E	Whistleblowing Policy	In accordance with the Public Disclosure Act 1998 (as amended by the Enterprise and Regulatory Reform Act 2013), sets out how workers can raise serious or sensitive concerns about other members of staff, suppliers, or people who provide services with protection from harassment, victimisation or bullying as a result of them raising concerns.
F	Regulation of Investigatory Powers Policy	Sets out rules and procedures for undertaking and gaining authorisation for covert surveillance in accordance with the RIPA Act 2000 (as amended by the Protection of Freedoms Act 2012) and compliant with Human Rights & Data Protection Legislation
G	Bribery Act Policy	Sets out the Council's commitment to the prevention, deterrence and detection of bribery and to raise awareness with relevant officers linking with the already in place Employee Code of Conduct and rules on accepting gifts and hospitality

7.5 Counter Fraud Policies and the Strategy will be made available on the Council website and staff intranet. Awareness raising, training and briefings will also be targeted at specific groups of staff - identified from an ongoing project to refresh of the Council's fraud risk assessment - through channels such as face to face, e-bulletins/e-learning and posters on staff notice boards and computer screens.

## **8. Financial Implications**

*Implications completed by: Thomas Mulloy, Chief Accountant*

- 8.1 The Corporate Counter Fraud team is fully funded for 2019/20.

## **9. Legal Implications**

*Implications completed by: Dr Paul Feild, Senior Governance Solicitor*

- 9.1 The Accounts and Audit (England) Regulations 2015 section require that: a relevant authority must ensure that it has a sound system of internal control which—facilitates the effective exercise of its functions and the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective; and includes effective arrangements for the management of risk.
- 9.2 Furthermore the Director of Finance has a statutory duty, under Section 151 of the Local Government Act 1972 and Section 73 of the Local Government Act 1985, to ensure that there are proper arrangements in place to administer the Council's financial affairs.
- 9.3 Counter Fraud practices set out in this report address the need to counter fraud, money laundering, bribery and the proceeds of crime. The Council's policies guide on the investigatory and prosecution process. In formulating the policies, it addresses the issue of corruption and bribery. Corruption is the abuse of entrusted power for private gain. The Bribery Act 2010 defines bribery as "the inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages whether monetary or otherwise".
- 9.4 The Local Government Act 1972 provides the Council with the ability to investigate and prosecute offences committed against it. We will enhance our provision further by making best use of existing legislation, for example the Proceeds of Crime Act 2002, to ensure that funds are recovered, where possible by the Council.

**Public Background Papers used in the Preparation of the Report: None.**

### **List of Appendices**

- A Counter Fraud Strategy
- B Counter Fraud Policy including Fraud Response Plan
- C Prosecution Policy
- D Money Laundering Policy
- E Whistleblowing Policy
- F Regulation of Investigatory Powers Policy
- G Bribery Act Policy