Midlothian

Audit Committee
Monday 22 June 2020
Item No: 5.4

Counter Fraud Annual Report 2019/20
Report by the Chief Internal Auditor

1 Purpose of Report

The purpose of this report is to provide an update to the Audit Committee on the Council's counter fraud responsibilities and the activities of the Corporate Fraud team over the past year as part of the arrangements to tackling fraud at the Council, and to propose a revised Counter Fraud Policy Statement and Strategy for Council approval.

2 Background

2.1 The Council is committed to minimising the risk of loss due to fraud, theft or corruption and to taking appropriate action against those who attempt to defraud the Council, whether from within the authority or from outside, as set out within its counter fraud and corruption policy and strategy.

2.2 The primary responsibility for the prevention, detection and investigation of fraud rests with Management, supported by the corporate Fraud & Audit Officers. Internal Audit provides advice and independent assurance on the effectiveness of processes put in place by Management.

2.3 Part of the Audit Committee's role is to review the assessment of fraud risks and potential harm to the Council from fraud and corruption, and to monitor the counter fraud strategy, actions and resources.

3 Corporate Fraud Team Activity

3.1 The 2019/20 planned Corporate Fraud activity was approved by this Committee in March 2019. The Plan Days for Corporate Fraud activity was increased from the previous year 2018/19 of 210 days (equivalent to staff resources of 1.0 FTE) to 305 days (equivalent to staff resources of 1.5 FTE), to reflect the actual corporate fraud resources deployed on fraud investigations during the previous year in order to carry out ongoing fraud activity anticipated in 2019/20. The staff resource relates to the two Fraud & Audit Officers, plus some management and supervision provided by the Principal Internal Auditor and the Chief Internal Auditor. The actual corporate fraud resources deployed during 2019/20 was 455 days, broadly equivalent to 2.1 FTE (i.e. utilising the two Fraud & Audit Officers full time and greater than planned management and supervision by the Principal Internal Auditor and the Chief Internal Auditor).

3.2 For the second consecutive year significantly more staff resources have been deployed during the year than planned on corporate fraud activity, mostly notably due to the deployment to the ongoing fraud investigation activity and responses to fraud enquiries which have increased in volume, some of which have been received through the whistleblowing

mechanisms. This has had an impact on the delivery of some of the Counter Fraud planned work with the following not being carried out:

a) Compliance testing of Licensing;
b) Data Match of Council Tax Reduction Scheme, Discounts and Exemptions; and
c) Fraud Awareness Training.

The planned Data Match associated with the Council's participation in the National Fraud Initiative was carried out in line with the Plan and the outcomes are included within this report.

3.3 It has been calculated, using Audit Scotland guidance (where relevant), that as a result of Corporate Fraud Team activity on other corporate fraud enquiries a total savings value of £103,164 has been identified during 2019/20. These are detailed in Appendix 1. Areas of work undertaken by the Team and the value identified during 2019/20 are detailed below.

3.4 As specialist investigators, the Team has continued to be involved in the recovery action that is ongoing under the Roads Contract Management Investigation, which in addition has involved input from the Principal Internal Auditor. In addition £3,438 Income was recovered for Midlothian Council as a result of additional work carried out under the review of Invoices from the Roads Investigation.

3.5 The Corporate Fraud Team continues to deal with enquiries from the Midlothian Council website page "Report a possible crime, fraud or similar concern" or the anonymous telephone reporting line or secure email address which are all available to staff or the public for whistleblowing purposes. Investigations have been carried in response to 15 referrals from various sources that raised concerns of corporate fraud, bribery or corruption. Initial fact-finding responses are followed by intelligence gathering and investigations. If substantiated, appropriate action is taken in accordance with the Council's policies and procedures, for example, disciplinary or contract management action. Where criminal activity is suspected, referrals have been made to Police Scotland; there are 3 criminal investigations that are ongoing. The value of these fraud, bribery or corruption cases has not yet been verified due to the ongoing nature of the investigations.

3.6 The Team has received notifications from Housing Officers during the year to detect and investigate potential subletting or abandonment of Council owned properties. As a result of this, 23 allegations of potential tenancy fraud were investigated; one of which resulted in the return of a property to the housing stock which was subsequently made available to those in genuine need. For each of the houses identified the calculation, according to Audit Scotland guidance, is £93,000 over 4 years.

3.7 The Corporate Fraud Team responded to 12 notifications of alleged fraud associated with Council Tax Discounts and Exemptions during the year to determine whether these discounts and exemptions are claimed legitimately, including Council Tax Reduction Scheme (CTRS) and Single Person Discount (SPD). One referral from Housing relating to an undeclared person residing in the property, was investigated and subsequently referred to the Single Fraud Investigation Service (SFIS) of the Department for Work and Pensions (DWP) to interview the Tenant.

This resulted in identification of overpayments of Housing Benefit (£6,907) and Council Tax Reduction and Single Persons Discount (£3,257). Although planned compliance testing of CTRS was not carried out during the year, as stated in 3.2, the above indicates that reactive CTRS counter fraud work was undertaken relating to this area of fraud risk.

3.8 A member of the Corporate Fraud team acts as the Single Point of Contact for Midlothian Council with Police Scotland for Serious and Organised Crime Groups. During the year, 12 enquiries were received from Police Scotland and information was provided to them under section 21 (paras 2 & 3) of the Data Protection Act 2018. One enquiry subsequently resulted in a further allegation being referred to SFIS of the DWP to investigate. The outcome is not yet known. The Fraud & Audit Officers are members of the Council's Serious Organised Crime (SOC) Group, relating to Serious and Organised Crime and Counter Terrorism.

3.9 The Fraud & Audit Officers are members of the Scottish Local Authority Investigators Group (SLAIG) to represent Midlothian Council. They attend SLAIG's quarterly meetings as a forum for sharing best practice across Councils and the wider public sector, thus ensuring their knowledge of emerging fraud risks and issues is up to date.

3.10 Midlothian Council continues to participate in the National Fraud Initiative (NFI) which is a UK wide counter-fraud exercise led by the Cabinet Office and Audit Scotland. It uses data analytic techniques to compare information about individuals held by different public bodies, and on different systems, to identify circumstances (data matches) that might suggest the existence of fraud or error. The Principal Internal Auditor acts as the Council's Key Contact for NFI and the Corporate Fraud Team has coordinated the submission of the required data sets from various Council systems and responded to the data matches received to date with input from relevant Services across the Council. The outcomes from Midlothian Council's participation in the National Fraud Initiative 2018/2019, shown in Appendix 2, total £83,088.

3.11 In conclusion, the Corporate Fraud Team has been successful in achieving the above outcomes during 2019/20 and making best use of resources to support Midlothian Council's objectives. Tackling fraud is an ongoing process as the Council's internal and external operating environment changes.

4 Review of Counter Fraud Management Arrangements

4.1 In light of the significant fraud investigations that have occurred within Midlothian Council in recent years, noting that these have aspects that are still ongoing, it is relevant to conduct a review of counter fraud management arrangements in place and to make improvements.

4.2 The new Senior Leadership Structure provides the ideal opportunity for re-establishing a counter fraud culture which is fundamental to ensuring an effective response to fraud, theft, corruption or crime. The leadership part played by Corporate Management Team and Operational Management is key to establishing counter fraud behaviours within the organisation, its partners, suppliers and customers.

4.3 A revised Counter Fraud Policy Statement (Appendix 3) and Counter Fraud Strategy (Appendix 4) is included for consideration and endorsement by the Audit Committee for full Council approval.

4.4 Midlothian Council is committed to creating a great place to grow supported by the 9 drivers for change:

4.5 Implementing the 9 drivers for change in practice is applicable to the Council's arrangements for tackling fraud as set out in the Counter Fraud Policy Statement (Appendix 3) and Counter Fraud Strategy (Appendix 4). The shift from the left-hand column to the right hand column is an intrinsic part of the proposed change in approach and culture for the Council for tackling fraud and corruption. For example:

(a) The formal establishment of an Integrity Group with a Terms of Reference (Appendix 5) shifting from silo-based working to more holistic working in multi-disciplinary forums to tackle fraud in a consistent and collaborative way across the Council;

(b) A focus on enhancing fraud prevention and detection to improve Midlothian Council's resilience to the threat of fraud and corruption, and ensure these are embedded preventative practices;

(c) Applying the minimum standard within the CIPFA Code of Practice on 'Managing the Risk of Fraud and Corruption (2014)' for counter fraud policy, strategy and other practices, and adopting the CIPFA Counter Fraud Maturity Model as a means of self-assessment moving forward will enable continuous improvement to be evaluated, managed and evidenced; and

(d) Use of a blend of toolkits such as fraud vulnerability assessments and e-learning packages that can be tailored to specific Services.

4.6 It is important that associated policies, procedures and guidelines across the Council are regularly reviewed and updated, as appropriate, as this will ensure that they keep pace with best practice in relation to fraud and corruption prevention and detection, to ensure their continued relevance and effectiveness.

4.6 An assessment has been carried out during 2019/20 of the Council's counter policy framework against best practice, the CIPFA Counter Fraud guidance, as set out in the table below:

The CIPFA Counter Fraud guidance states the minimum policy framework will include:	Associated Policies across the Council (latest approved date and responsible officer in brackets):
• Counter Fraud Policy	• Anti-Fraud Policy and Strategy (December 2016; Chief Internal Auditor)
• Whistleblowing Policy	• Whistle Blowing – Public Interest Disclosure Policy (August 2017; Chief Internal Auditor/HR Manager)
• Anti-Money Laundering Policy	• Anti-Money Laundering Policy (October 2019; s95 Officer)
• Anti-Bribery & Corruption Policy	• Anti-Bribery Policy (December 2016; s95 Officer)
• Gifts & Hospitality Policy and register	• Gifts & Hospitality Policy and register (March 2019; HR Manager)
• Conflict of Interest Policy and register	• Outside Employment and Other Interests Policy (April 2019; HR Manager)
• Codes of Conduct and Ethics	• Employee Code of Conduct (2019; HR Manager)
• Information Security Policy	• Information Security Policy (October 2017; Information Governance / Security Services Lead)
• Cyber Security Policy	• Information Security Policy incorporates the subset of cyber security policy (October 2017; Information Governance / Security Services Lead)

4.7 The Corporate Fraud Annual Plan 2020/21 (Appendix 6) sets out the planned Corporate Fraud activity to support the change in approach and culture for the Council for tackling fraud and corruption to deliver the revised Counter Fraud Strategy which requires additional resources as set out below.

5 Report Implications

5.1 Resource

The actual corporate fraud resources deployed during 2019/20 was 455 days, broadly equivalent to 2.1 FTE i.e. utilising the two Fraud & Audit Officers full time and greater than planned management and supervision by the Principal Internal Auditor and the Chief Internal Auditor. This was higher than the current approved establishment which is 50% of each of the two Fraud & Audit Officers (1 FTE Corporate Fraud Team), who are Accredited Counter Fraud Specialist officers.

The new counter fraud policy and strategy with a focus on prevention will also require more fraud staff resources than is within the current approved establishment. It is therefore proposed to have 2 FTE Corporate Fraud Officers with the 1 FTE Audit resource being retained to deliver planned Internal Audit activity approved by the Audit Committee in March 2020. These additional costs arising from enhanced fraud risk mitigation within the Council will have to be considered and prioritised against other pressures in the revenue budget. A Service Review will be undertaken in collaboration with HR.

5.2 Risk

The report sets out primary responsibility for the prevention, detection and investigation of fraud that rests with Management, and directly addresses fraud risk and outcomes arising from work undertaken by the Corporate Fraud Team in collaboration with other Services to reduce the risks within the Council.

5.3 Single Midlothian Plan and Business Transformation

Themes indirectly addressed in this report:

☒ Community safety
☒ Adult health, care and housing
☒ Getting it right for every Midlothian child
☒ Improving opportunities in Midlothian
☒ Sustainable growth
☒ Business transformation and Best Value
☐ None of the above

5.4 Key Priorities within the Single Midlothian Plan

Although this report does not relate directly to the key priorities within the Single Midlothian Plan (Reducing the gap in learning outcomes; Reducing the gap in health outcomes; and Reducing the gap in economic circumstances) by preventing and detecting fraud, additional resources might be available to support the Council's objectives. Any loss of funds due to fraud and corruption might impact on the ability of Midlothian Council to achieve its priorities.

5.5 Impact on Performance and Outcomes

The Findings and Recommendations from Internal Audit and Corporate Fraud work during the year assists the Council in improving its performance and outcomes which are designed to maintain and / or enhance fraud prevention and detection controls.

5.6 Adopting a Preventative Approach

Having a robust fraud prevention and investigation service contributes to safeguarding the Council's financial resources, for delivery of services, as part of protecting the public purse. A focus on enhancing fraud prevention and detection to improve Midlothian Council's resilience to the threat of fraud and corruption, and ensure these are embedded preventative practices are specific changes associated with the proposed Counter Fraud Strategy (2020).

5.7 Involving Communities and Other Stakeholders

This Counter Fraud Annual Report 2019/20 has been presented to the Corporate Management Team (SRG 3 June 2020 comprising Chief Executive, Executive Directors, and Chief Officers/Heads of Service) who play a key leadership role along with Operational Management in establishing counter fraud behaviours within the organisation, its partners, suppliers and customers.

This report outlines outcomes arising from work undertaken by the Corporate Fraud Team, some of which arose from whistleblowing received from those within communities or other stakeholders.

5.8 Ensuring Equalities

There are no equalities issues with regard to this report.

5.9 Supporting Sustainable Development

There are no sustainability issues with regard to this report.

5.10 IT Issues

There are no IT issues with regard to this report.

6 Recommendations

The Audit Committee is therefore asked to:

a) Consider the counter fraud work undertaken by the Corporate Fraud Team during the year to 31 March 2020 (Appendix 1), in support of Management and the delivery of the Council's anti-fraud and corruption policy and strategy;

b) Note the Outcomes of Midlothian Council's participation in the National Fraud Initiative 2018/2019 (Appendix 2);

c) Endorse the revised Counter Fraud Policy Statement (Appendix 3) and Counter Fraud Strategy (Appendix 4) for full Council approval, and endorse the proposal to have 2 FTE Corporate Fraud Officers to deliver the revised Counter Fraud Strategy which requires additional resources;

d) Approve the Terms of Reference for the new Integrity Group (Appendix 5); and

e) Approve the Corporate Fraud Annual Plan 2020/21 (Appendix 6) which is based on the proposal to have 2 FTE Corporate Fraud Officers to deliver the revised Counter Fraud Strategy.

Date: **15 May 2020**
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Appendix 1 – Outcomes from Corporate Fraud Team activity on other corporate fraud enquiries in 2019/20

Type of Referral	No of Referrals	Web	Telephone	Email	No with Fraud Detected	£ value Fraud Detected	Comments
Corporate Fraud (Internal)	15	5	7	3			Investigations in response to referrals from various sources. Disciplinary or other action taken, as appropriate. Referrals made to Police Scotland for 3 criminal investigations that are ongoing. Value not yet verified. £3,438 was recovered associated with the review of Invoices from the Roads Investigation. Other recovery action currently ongoing under the Roads Investigation.
Housing Tenancy Fraud	23	1	3	19	1	£93,000	23 referrals resulting in investigations which recovered 1 Council house and return to available housing stock. Value per Audit Scotland guidance (£93,000 over 4 years each).
Council Tax Discounts & Exemptions, CTRS / SPD	12	4	5	3	1	£10,164	1 investigation relating to an undeclared person residing in the property subsequently referred to DWP SFIS to interview the Tenant. This resulted in overpayments of Housing Benefit (£6,907) and Council Tax Reduction & Single Persons Discount (£3,257).
DPA/SOCG enquiries	12			12			12 enquiries received from Police Scotland. 1 enquiry subsequently resulted in a further allegation being referred to DWP SFIS to investigate. The outcome is not yet known.
Other	5	3		2			Investigations resulting in referrals being submitted to external partners and internal services including Health & Safety Executive, Trading Standards, Planning, and Environmental Health.
Total	**67**	**13**	**15**	**39**		**£103,164**	

Appendix 2 – Outcomes from Midlothian Council's participation in The National Fraud Initiative 2018/2019 (to 04/04/2020)

Type	No of Matches in 2018/2019	No of matches reviewed	Fraud or Errors Detected	Outcome (overpayment)	Estimated Savings	Total Savings	Comments
Council Tax (SPD)	3667	613	51*	£8,958	£40,814	£49,771	Previous years NFI matches excluded.
Housing Benefit	422	55	2*	£999	£2,532	£3,531	*2 of the 51 SPD cases also had HB element.
Council Tax Reduction (CTRS)	517	224	3	£2,729	£1,757	£4,486	Previous years NFI matches excluded.
Payroll	154	85					Previous years matches excluded. No issues found.
Disabled Parking Blue Badges	92	92	44		£25,300	£25,300	44 badges had not been cancelled.
Housing Tenants	563	509					No issues found.
Residential Care Homes	34	34					No issues found.
Personal Budgets	7	6	1	£4,629	£74,246		Awaiting outcome of DWP SFIS investigation (notional figures input as per NFI guidance)
Creditors	3,054	591					The large number of matches is as a result of the volume of creditors' information.
Total Savings						**£83,088**	