

# Audit and Performance Committee Report

<b>Meeting:</b>	Audit and Performance Committee
<b>Date:</b>	Wednesday 14 <sup>th</sup> November 2018
<b>Classification:</b>	For General Release
<b>Title:</b>	Counter Fraud 2018/19 – Half Year Report
<b>Wards Affected:</b>	All
<b>Financial Summary:</b>	The Council's budget
<b>Report of:</b>	David Hodgkinson, Deputy Section 151 Officer
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The Audit and Performance Committee's Terms of Reference require that the Committee receive reports on internal and external fraud investigated by the Council. This report is intended to brief members of the Committee in respect of work undertaken by the fraud service during the period 1 April 2018 to 30 September 2018.

**FOR INFORMATION**

## 1. BACKGROUND

- 1.1 This report provides an account of fraud related activity undertaken by the Corporate Anti-Fraud Service (CAFS) from 1 April 2018 to 30 September 2018.
- 1.2 CAFS remains a shared service covering three Councils and continues to reap a number of benefits including the sharing of skills and expertise, a "compare and contrast" review to identify the best practice and the streamlining of anti-fraud related policies and procedures.
- 1.3 CAFS continues to provide Westminster City Council with a full, professional counter fraud and investigation service for fraud attempted or committed against the Council.
- 1.4 Since April 2018 CAFS identified 106 positive outcomes. This includes 33 tenancy and housing-related successes and the successful prosecution of 53 individuals for fraudulently misusing disabled parking badges. For the period 1

April 2018 to 30 September 2018, fraud identified by CAFS has a value of over £320,000 and is detailed in the following table.

<b>Activity</b>	<b>Fraud proved 2017/18 Half year</b>	<b>Fraud identified 2017/18 (£'s)</b>	<b>Fraud proved 2018/19 Half year</b>	<b>Fraud identified 2018/19 (£'s)</b>
Housing Fraud (inc. Applications, assignments & successions)	8	47,344	3	27,700
Right to Buy	24	62,670	21	40,780
Advisory Report	3	8,000		
<b>Prevention subtotal</b>	<b>35</b>	<b>118,014</b>	<b>24</b>	<b>68,480</b>
Tenancy Fraud (CWH and Registered Providers)	13	80,100	10	98,950
Internal Staff and Other Services	7	17,694	7	14,266
Disabled Parking	11	36,231	53	119,250
Resident's Parking	32	35,945	11	18,000
<b>Detection subtotal</b>	<b>63</b>	<b>169,970</b>	<b>81</b>	<b>250,466</b>
Proceeds of Crime (POCA)	2	11,486	-	-
Press releases and publicity		-	1	2,000
<b>Deterrence subtotal</b>	<b>2</b>	<b>11,486</b>	<b>1</b>	<b>2,000</b>
<b>Total</b>	<b>100</b>	<b>299,470</b>	<b>106</b>	<b>320,946</b>

1.5 Details of noteworthy cases are reported in Appendix 1.

## 2. WHISTLEBLOWING

2.1 The Council's whistleblowing policy continues to be the primary support route for staff wishing to report a concern.

2.2 Since April 2018 CAFS received one referral via the whistleblowing process which remains ongoing. The table below provides an overview of the allegation and outcome of the investigation;

<b>Allegation</b>		<b>Outcome</b>
i.	Codes of Conduct breaches	An investigation remains ongoing

- 2.3 One case referred during 2016/17 financial year, which was deemed a protected disclosure has now concluded. One element of the case was resolved during 2017/18 when disciplinary action was taken against a member of staff for a data breach.
- 2.4 The second part of the investigation was concluded in August 2018. No further action was undertaken by the Council, but one of the Council's partner organisations were able to take appropriate action against an employee resulting in a dismissal.

### **3. ANTI-FRAUD AND CORRUPTION STRATEGY**

- 3.1 The Council's Anti-Fraud & Corruption Strategy is based on three key themes: Acknowledge, Prevent and Pursue, and is aligned with the National Strategy: *Fighting Fraud and Corruption Locally*.
- 3.2 The Strategy places emphasis upon the following anti-fraud activities:
- i. **Acknowledge:** recognising and understanding fraud risks and committing support and resource to tackling fraud to maintain a robust anti-fraud response.
  - ii. **Prevent:** preventing and detecting more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture.
  - iii. **Pursue:** punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing capability and capacity to investigate fraudsters and developing a more collaborative and supportive law enforcement response.

### **4. ACKNOWLEDGE, PREVENT, PURSUE**

#### **(i) ACKNOWLEDGE**

##### **Committing support and resource to tackling fraud.**

- 4.1 Since April 2017 CAFS have supported four officers complete their CIPFA Accredited Counter Fraud Specialist examination, and two officers began and are in the processes of completing the syllabus this year.
- 4.2 Additionally, one officer has continued his studies and is now an Accredited Financial Investigator, who has the powers to freeze assets and seize cash.
- 4.3 Financial investigation techniques can be used in all types of investigations, and this specialist officer will be able to use powerful legislative tools that target the proceeds of crime. This will help to provide alternative ways of uncovering

evidence, introduce time saving processes and provide revenue generation opportunities.

### **Maintain a robust anti-fraud response.**

- 4.4 There are three critical elements of the operational plan that underpins and drives the Anti-Fraud and Corruption Strategy, and CAFS refer to this as the *Fraud Resilience Triangle*. The triangle is formed of:
- 1) Fraud Risk Register (*Acknowledge*)
  - 2) Pro-Active Work Programme (*Prevent*)
  - 3) Reactive Referrals (*Pursue*)
- 4.5 Responding solely with reactive referrals often fails to provide the levels of coverage required to provide a robust anti-fraud response. Therefore, during 2018/19 CAFS continue to dedicate resources to pro-active operations.
- 4.6 Combining pro-active work plans with reactive capability increase the chances of fraud detection. But regardless of how successful a proactive fraud operation may be in detecting fraud, it can always serve as a deterrent if the work is done visibly and if it is performed in areas that fraud perpetrators may consider operating.

## **(ii) PREVENT**

### **Housing/Tenancy Fraud**

- 4.7 CAFS provides an investigative service to all aspects of housing, including the verification applications for housing support, as well as applications for the succession or assignment of tenancies. CAFS also investigate allegations of subletting or other forms of tenancy breaches as well as the checking of all right to buys.
- 4.8 For the period 1 April 2018 to 30 September 2018, CAFS has successfully prevented three false successions/assignments and recovered ten properties including three three-bedroom addresses which are in high demand and can now be allocated to a family in genuine need of assistance. Of the ten recoveries, six involved the return of keys and vacant possession without the need for lengthy and costly legal action and ensuring properties can be promptly reallocated.
- 4.9 A further seven cases are currently lodged with the Council's solicitors awaiting a court date.

### **Right to Buy (RTB)**

- 4.10 CAFS apply an enhanced fraud prevention process to all new RTB applications, including anti-money laundering questionnaires as well as financial and residential verification.

- 4.11 For the period 1 April 2018 to 30 September 2018, CAFS have successfully prevented 21 Right to Buys from completion, where suspicion was raised as to the tenant's eligibility or financial status. In many instances, these have been as a result of the tenant voluntarily withdrawing their application once checking commenced.
- 4.12 The prevention work undertaken by CAFS in respect of RTB continues to protect valuable Council stock.

### **Corporate investigations**

- 4.13 Corporate investigations are defined as fraud cases which relate to employee fraud or other third party fraud which does not fall within a particular CAFS service areas such as Housing or Parking Fraud.
- 4.14 Since 1 April 2018 work in this area has included:
- Potential theft of sensitive data
  - Personal Budget misuse - investigation identified over £2,000 misused by client's family, advised on recovery and introduced controls to prevent future loss
  - Council Tax: Single Person Discount - £2,550 removed and bills revised
  - Accessible transport fraud

### **Parking investigations**

- 4.15 CAFS continue to investigate the misuse of disabled parking badges, and for the period 1 April 2018 to 30 September 2018 have successfully prosecuted 53 offenders. A further eleven cases are currently lodged with the Council's solicitors awaiting a court date.
- 4.16 From the successful prosecutions secured to date, fines totalling £12,081 were imposed, and defendants ordered to pay the Council a total of £19,117 in costs and victim surcharges. The table below identifies the wards where offenders were unlawfully parking when apprehended.

<b>WARD</b>	<b>Prosecutions</b>
Marylebone High Street	28
West End	17
Bryanston & Dorset	4
Knightsbridge & Belgravia	2
St James	1
Hyde Park	1

- 4.17 CAFS also investigate the misuse of, and false application for, residents parking permits. For the period 1 April 2018 to 30 September 2018 the team have successfully detected and taken appropriate action against eleven offenders.

### **National Fraud Initiative (NFI)**

- 4.18 A vital component of the of the anti-fraud and corruption strategy is making better use of information and technology. To this effect, CAFS participate in the National Fraud Initiative (NFI) which is a data matching exercise carried out by the Cabinet Office.
- 4.19 The Cabinet Office has statutory powers in the Local Audit and Accountability Act 2014 to request data from Councils, but as the data owners, we must ensure the Council remains compliant with the Data Protection Act 2018 in light of the additional burdens introduced by the General Data Protection Regulations (GDPR).
- 4.20 To provide this assurance CAFS have been required to review how the Council collects data, ensure that privacy notices and fair processing notices are in place, or agree action plans for correction. A total of fifteen different datasets were reviewed, and the findings are detailed in the table below.

<b>Data Set</b>	<b>Fair Processing Notice (FPN)</b>	<b>Privacy Notice</b>	<b>Comments</b>
Blue Badge	Yes	Yes	No action required
Resident's parking permit	Yes	Yes	No action required
Concessionary Travel	Yes	Yes	No action required
Council Tax Reduction Scheme	Yes	Yes	No action required
Council Tax	Yes	Yes	No action required
Trade Creditors Standing	No	No	<b>Corrective action:</b> Due to change from BT Agresso to IBC, new arrangements agreed for IBC website to include FPN notices.
Trade Creditors History	No	No	
Payroll	No	No	
Pensions	Yes	Yes	No action required
Housing tenants	Yes	Yes	Covered under CityWest Homes privacy notice
Waiting list	Yes	Yes	No action required
Right to Buy	Yes	Yes	Covered under CityWest Homes privacy notice
Residential care homes	Yes	Yes	No action required
Personal Budgets (Direct Payments)	Yes	Yes	No action required
Electoral Roll	Yes	Yes	No action required
Market Traders	Yes	Yes	No action required
Alcohol Licence	No	Yes	<b>Corrective action:</b> Raised awareness with Cabinet Office – government form fails to address FPN.

- 4.21 This data is currently being produced for the Cabinet Office, and matching results will be received in early 2019 for investigation.

### **(iii) PURSUE**

#### **Deterrence**

- 4.22 Stopping fraud and corruption from happening in the first place must be our primary aim. However, those who keep on trying may still succeed. It is, therefore, essential that a robust enforcement response is available to pursue fraudsters and deter others.
- 4.23 In July 2018 a CityWest Homes tenant was successfully prosecuted after a CAFS investigation found that she was actually living in Swansea and fraudulently subletting the London property.
- 4.24 The former tenant at Scott Ellis Gardens, in Westminster, was successfully prosecuted at a two-day trial at Southwark Crown Court.
- 4.25 The tenant was found guilty of four charges in respect of the Fraud Act 2006 with two counts of fraud by false representation and two counts of fraud by failing to disclose information. On each of the two counts of fraud by false representation, they were sentenced to 18 months' imprisonment suspended for two years. On each of the two counts of fraud by failing to disclose information, they were sentenced to 12 months' imprisonment suspended for two years.
- 4.26 They were additionally ordered to complete 180 hours of unpaid work and to comply with 10 days of a Rehabilitation Activity Requirement.
- 4.27 The fraud was uncovered during the Right to Buy verification process undertaken by CAFS. Part of these checks involved unnotified visits which found the property to be occupied by someone else.

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**Local Government Access to Information Act – background papers used:**  
Case Management Information

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**PRO-ACTIVE OPERATIONS**

Source	Fraud Review	Details	Risk
Fraud Awareness	<b>Human Resources (HR) – Schools Team</b>	<p>Fraud awareness presentation given to HR Schools Team covering the following topics;</p> <ul style="list-style-type: none"> <li>• Roles and responsibility of the Corporate Anti-Fraud Service</li> <li>• Explanation of what fraud is, including an overview of the Fraud Act 2006.</li> <li>• Anti-fraud strategies including prevention, detection, investigation and redress.</li> <li>• Provisions for fraud reporting and case studies</li> </ul> <p>Positive feedback from this engagement has generated a further presentation scheduled for late November 2018 to be given directly to school business managers.</p>	<p>Awareness exercise.</p> <p>↔</p>
Pro-active counter fraud work plan	<p><b>Recruitment (Temporary staff)</b></p> <p>The Matrix system allows managers to search for a specific name, and receive the CV just for that candidate thereby heightening the risk of nepotism or similar.</p>	<p>A substantive sample of transactions are analysed by CAFS on a quarterly basis to ensure temporary recruitment underwent a fair process. Checking includes a verification of references provided to ensure appropriate due diligence is completed.</p>	<p>Matrix system remains unchanged.</p> <p>No change</p> <p>↔</p>

Fraud Awareness	<b>City West Homes (CWH) – Housing Management</b>	<p>Fraud awareness presentation given to CWH senior housing management staff covering the following topics;</p> <ul style="list-style-type: none"> <li>• Roles and responsibility of the Corporate Anti-Fraud Service</li> <li>• Explanation of what fraud is, including an overview of the Prevention of Social Housing Fraud Act 2013.</li> <li>• Anti-fraud strategies including prevention, detection, investigation and redress.</li> <li>• Provisions for fraud reporting</li> <li>• Case studies</li> </ul>	<p>Awareness exercise.</p> <p>↔</p>
Pro-active counter fraud work plan	<b>Personal disabled parking bays</b>	<p>Work was undertaken to detect possible fraud in respect of personal disabled bays in Westminster. These bays are created specifically for the sole use of a Westminster resident whose disability is considered so severe that they require their own space close to their home.</p> <p>Currently there are 142 bays, and records relating to these bays were matched against other Council data. This work identified seven bays that were no longer required at the location because the recipient was no longer resident. These bays have now been returned to general usage.</p>	<p>Preventative exercise.</p> <p>↔</p>

<p>Pro-active counter fraud work plan</p>	<p><b>Data Analytics</b></p> <p>Applying analytic data techniques, including Benford's Law, against payment data to identify discrepancies for further investigation.</p> <p>Using analytics gives the work;</p> <ul style="list-style-type: none"> <li>• credibility</li> <li>• risk-based analysis</li> <li>• coverage, and</li> <li>• an increased chance of finding fraud.</li> </ul>	<p>On a quarterly basis, CAFS analyse all Council payments and all Procurement Card transactions using Benford's Law which spots anomalies in a frequency distribution.</p> <p>The payment frequencies and amounts showed no significant peaks or troughs which might signify potential fraud or require closer inspection or sampling.</p>	<p>The analytics provide assurance but insufficient data to amend risk scores which remain unchanged.</p> <p>No change</p> <p>↔</p>
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## NOTEWORTHY INVESTIGATIONS

	Case Description
1.	<p><b>INSIDER FRAUD</b> – CAFS received an allegation from CityWest Homes (CWH) that a former employee may have stolen company data when leaving the organisation, and that he may have used this information to assist with the setting up of his own company. There was no information or evidence to suggest that any data was being misused for criminal intent, but concerns were that the information was being used for commercial gain.</p> <p>Forensic analysis of the suspect's computers was procured by CAFS which provided some corroborative evidence that large amounts of data had been collated but no evidence to show it had been extracted or stolen.</p> <p>The ex-employee was interviewed under caution, but no criminal action taken.</p>
2.	<p><b>PERSONAL BUDGET FRAUD</b> – CAFS received an allegation from Adult Social Care that Personal Budget funds have been misused, following a review of monitoring data which suggested that goods and services had been purchased outside the care plan.</p> <p>With reasonable grounds to suspect a criminal offence may have been committed, a third party nominee, the service user's son, attended an interview under caution and admitted responsibility for managing the payments. He did not admit who had actually carried out the transactions as he said he did not want to incriminate his family, although the evidence suggested that he may have benefited from the misuse of the funds. However, there was insufficient evidence to attribute the transactions to an individual.</p> <p>A debt was raised for just over £2,000, which is being repaid, and a recommendation made for Adult Social Care to commission care directly.</p>

<p><b>3.</b></p>	<p><b>TENANCY/RTB FRAUD</b> - The tenant of a property at Scott Ellis Gardens submitted a Right to Buy application in June 2016. As is standard practice for such applications, it was referred to CAFS in order to undertake some checks to ensure the tenant was eligible for the right to buy. Part of these checks involved un-notified visits which found the property to be occupied by someone else.</p> <p>An investigation established that the tenant was subletting the property for £1,175 per calendar month while she was living in Swansea. She appeared to have been living there since at least October 2014 having sublet the Westminster property to other individuals over that period of time. Evidence amassed included advertising on the free classifieds ads website, Gumtree.</p> <p>The tenant was successfully prosecuted after a two-day trial at Southwark Crown Court, and found guilty of four charges in respect of the Fraud Act 2006, with two counts of fraud by false representation and two counts of fraud by failing to disclose information.</p> <p>On each of the two counts of fraud by false representation, the tenant was sentenced to 18 months' imprisonment suspended for two years. On each of the two counts of fraud by failing to disclose information, she was sentenced to 12 months' imprisonment suspended for two years. She was additionally ordered to complete 180 hours of unpaid work and to comply with 10 days of a Rehabilitation Activity Requirement.</p> <p>Using Proceeds of Crime legislation, CAFS are now seeking to confiscate the £23,780 which the tenant received as rent from the subtenants. The property has since been let to someone in greater need of a home.</p>
<p><b>4.</b></p>	<p><b>TENANCY FRAUD</b> - A referral from CityWest Homes suggested that the tenants of a three-bedroom flat in Dalton House, Ebury Bridge Road, SW1, were no longer resident following several unsuccessful visits by housing officers.</p> <p>CAFS investigation revealed that the tenants had been living in Saudi Arabia since 2013 with only a few occasional trips back to the UK. Even their five children were being educated there and registered in Arabian schools.</p> <p>Supported by the evidence amassed by CAFS a notice seeking possession was issued and the property returned to CityWest Homes following a brief court hearing.</p>

**5.**

**TENANCY FRAUD** - CAFS received a referral from Octavia Housing asking them to investigate potential non-residency at a Siddens Lane, NW1 address. The building's caretaker hadn't seen the tenant for some time.

Background checks establish the tenant spent most of their time in Denmark and had little connection with the City Council property. In fact, evidence showed the tenant had spent 961 days out of the UK in the last four years.

The tenant was invited to attend an interview where he initially denied that he had abandoned his property saying that he had family commitments in Denmark, but that the Siddens Lane flat was his home. However, when confronted with the evidence he agreed to relinquish the tenancy forthwith and returned the keys to a vacant possession in May 2018.

Octavia Housing gave the nomination rights of this one-bedroom flat to the City Council for them to support someone in genuine need of housing.