

TRAFFORD COUNCIL

Report to: Accounts and Audit Committee
Date: 27 September 2023
Report for: Information
Report of: Counter Fraud & Litigation Manager

Report Title

Counter Fraud & Litigation Team (CFT) : 2022/23 Annual Report

Summary

The report:

- outlines the Council's fraud prevention and detection performance and activities in 2022/23 and
- outlines the team's plans for 2023/24

Recommendation

The Committee is asked to note the content of the report.

Contact person for access to background papers and further information:

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Background Papers:

None

1.0 Introduction

- 1.1 Local Authorities have a statutory duty under section 151 of the Local Government Finance Act 1972 to make arrangements for the proper administration of their financial affairs.
- 1.2 The Council operates a Counter Fraud and Litigation Team to ensure a continued commitment to the authority's zero tolerance towards fraud as well as ensuring that appropriate action is taken to recover monies owed to the authority

2.0 Counter Fraud and Litigation Team

- 2.1 The team was until July 2023 based within Exchequer Services located at Sale Waterside and since then has been transferred into the Council's audit and assurance function. Their main remit is to investigate Revenues related matters such as Council Tax Support, Council Tax discounts & exemptions, Non Domestic rates liability avoidance and Social Care Fraud. In the last 3 years it has also been heavily involved with the administration of, and, more recently subsequent investigation into, potential abuses of the various Business Support Grants which were introduced to support businesses affected by Covid related restrictions. The team is also required to carry out formal recovery action in relation to certain debts owed to the authority.
- 2.2 Over the 2022/23 financial year one of the roles the team has been continued to be tasked with relates to the identification and investigation of a number of fraudulent applications to Covid business support grants which were made to the authority during 2020 – 2022 when the schemes were in place. This is covered further later in this report. However it was also continuing to spend time and resources to support an ongoing Council Tax Single Person discount review that has been undertaken on behalf of the authority by a 3rd party company. The review has been targeting householders claiming the discount where credit based data had indicated that there may be additional person(s) residing in the property. The review has identified cases whereby the discounts were removed following admission by the tax payer that they were no longer eligible for the discount. There were also cases where the tax payer simply failed to respond to the review (leading to the discount to be removed automatically). In addition to this there were a number of accounts identified where the taxpayer had responded to the review confirming no longer eligible but giving false information regarding when the additional person(s) had moved into the property as evidence indicated that an earlier removal date should have been applied than we had previously been given. This led to investigations being set up by the team which resulted in additional council tax liability being created than would otherwise have been the case.
- 2.3. In addition to the Council Tax discount exercise, the team has also been continuing to work with the Non Domestic Rates team, regarding issues

surrounding reliefs available to businesses to reduce their Business Rate liability. There has also been a continued number of investigations conducted as a result of data matching undertaken highlighting businesses who had been claiming Small Business Rate Relief on the basis they have only one business premises in England yet had received multiple business support grants – mostly from different local authorities. This has not only helped prevent relief being awarded incorrectly (and then subsequently being made liable for Non Domestic rates payments) but also uncovered abuses of the Business Support Grants schemes that we would otherwise have been unaware of. This in turn has increased the value of business rate liability due to the authority, particularly where, by providing differing business ownership details to the authority, more than one property in the borough has been identified as falsely claiming relief. An example of this is shown below in **Case Study 1**

2.4

Case Study 1

An investigation was undertaken after a data matching exercise had highlighted that 2 separate businesses, which had each received a Small Business Fund Grant totaling £20k in respect of 2 separate premises, were actually trading as the same business from adjacent premises. The grants had been awarded based on the fact that they were receiving small business rates relief (SBRR) which would normally only be awarded where a business is only occupying 1 property in England. Our records showed that a husband and wife had each used their names to register the 2 businesses for business rates (1 in the name of the husband and 1 in the name of the wife). One of the business owners was subsequently interviewed and admitted that when the 1st business was opened it was only trading from one of the properties but they had since expanded the business, and were also running it from the additional, neighboring address they had purchased together. He accepted responsibility for the relief and grants being incorrectly claimed and as a result of the findings of the investigation, the Council were able to recover one of the £10k grants which had been claimed and also remove the SBRR back to 2017/18 resulting in the business having to pay £32.5k in additional business rates to the authority.

The team has also continued to work closely with other teams within Exchequer Services and across the authority. There have been many occasions over the years where a member of the public has been caught out attempting to gain funding from different Council services and giving differing information to suit their objectives. The need to share information & work together becomes hugely important when this happens. An example of such a case is outlined below in **Case Study 2**

Case Study 2

Last year the fraud team was alerted to a business owner in the borough who had previously successfully applied for – and been awarded – a number of Covid support grants on the basis that his business had been unable to open to the public due to the restrictions that were in place at the height of the Covid pandemic of 2020/21. However he then contacted our business rates team and, in an attempt to reduce his business rate liability by advising that they had not been able to open to the public due to the fact that the showroom was undergoing major renovations and not for the reasons he had previously stated when he applied for the grant funding. It also emerged that he had attempted to gain funding from the Council's Town Centre Business Growth Programme, again on the basis that he was renovating the property prior to its opening for business. Evidence was compiled including recordings of the calls made by the claimant to our business rates team, plus photographs of the premises showing it still to be closed 12 months AFTER the grant applications had been made and a formal interview was set up. However after becoming aware of the evidence he initially declined to be interviewed. An interview was subsequently arranged for a later date during which the claimant maintained that he had been misunderstood when he had stated (in 3 separate calls) that the business was closed and claimed that they had always been trading since taking over the lease in Jan 2021 (when the business could not have been open due to the restrictions in place at the time). No evidence was provided to support this account and it was subsequently deemed that the applications had indeed been false and he was asked to repay the £16k worth of grants that he had claimed. His application for business rate retail relief was also declined as was his application for Town Centre Loan.

The case has been referred for criminal proceedings and a summons issued for him to attend court issued. The matter has now been directed to the Crown Court for a criminal trial and we are now awaiting the outcome of a hearing in late September when a trial date will be set.

The power of data matching, in particular from the Council’s participation in the National Fraud Initiative (NFI) exercises, continues to be an extremely useful tool for tackling fraud, as it helps to bring together data that would not otherwise be available, An example of such is recorded below in **Case Study 3**

Case Study 3

An investigation was set up when a data match which set Council tax discount records against Local Authority payroll records indicated that a tax payer had failed to disclose an additional adult who held a number of posts with a neighboring authority. This information was also supported by credit and DWP records which indicated that they had been living together for over 15 years, a fact which had also not been declared on the customer’s Council Tax Support claimed. The customer failed to provide any alternative address for the additional adult and consequently their entitlement to both the discount and the Council Tax Support (based on the additional persons income) resulted in an additional Council Tax liability of just over £10k. The customer appealed against the decision but the weight of evidence linking the additional person to the address (and failure to provide a credible alternative address) resulted in the appeal being rejected. The overpayment is subsequently being recovered

Table 2 below shows the value of fraud or irregularity identified by the investigations element of the team during the 2022/23 financial year:

Table 2 – Counter Fraud & Litigation Team Investigations

	Amount (£)
Council Tax Discount Cancellations	24.9k
Council Tax Support/ Council Tax Benefit Overpayments	54.2k
Council Tax Liability Irregularities	4.9k
Non-Domestic-Rate-Liability Irregularities (net)	17.8k
Business Support Grant Irregularities	106.1k
Social Care Fraud	5.9k
Total Fraud/Irregularity Identified	213.8 k

3.0 Civil Debt Recovery Performance.

Over the last few years there has been a regular increase in the levels of debt being passed to the team to recover. Their success in doing so over the last 5 years is shown in the table below.

Table 3 – Counter Fraud & Litigation Team Recovery

Year	Amount (£)
2018/19	587.7k
2019/20	640.9k
2020/21	858.7k
2021/22	1.02m
2022/23	751.6k

As can be seen, the figures show that in 2022/23 the team collected just over £751k of previously unrecoverable debt. Whilst this clearly displays how effective the team continues to be in this area it also continues to highlight the scale of the debt which the authority is having to recover. A large percentage of the debt which the team is dealing with, relates to adult social care costs. This process can often become more difficult to collect when the person who the debt relates to is unable to manage their own affairs, and the Council is dealing with 3rd parties acting on their behalf, either in an official capacity (e.g. legal rep or power of attorney) or an unofficial capacity (e.g. a family member). Often, once a formal letter before civil litigation action explaining the next stage of the recovery procedure is issued, debtors will attempt to engage in mediation, and try to offer much lower amounts than what is actually owed. However ultimately if this approach does not prove to be acceptable then civil court legal proceedings are issued which gives the recovery officers more recovery options. Where it is identified that the debtor has property assets we have the power to place a charge on them to secure the debt. An example of a case that has proved very difficult to deal with but ultimately resulted in the authority taking such action, is discussed overleaf (**see Case Study 4**)

Case Study 4

The team have been dealing with a family for a number of years in respect of a debt owed in respect of their late mother's unpaid residential care charges. The service user had previously had one of her daughters acting for her but enquiries made established that, following her death, her estate had been discharged without settling the outstanding debt of nearly £50k. Contact was made with her daughter and the family then attempted to claim no knowledge of the debt (despite numerous notifications having been previously sent) and tried to get the debt written off – unsuccessfully involving the Local Government Ombudsman who were satisfied that we had acted correctly in this matter. Attempts were then made, via the families' solicitor, to offer a settlement amounting to only £20k which was rejected. Eventually, after much negotiation a payment was received for £20k with arrangement to settle the balance in full via instalments. The authority has also obtained charges against both family members' respective properties to secure the debt and ensure the arrangement is adhered to.

5.0 Planned activity for 2023/24

5.1 Following an Exchequer Services service review the Counter Fraud & Litigation team has split from the 1st of July 2023. The Counter fraud function of the team is now part of the Audit & Assurance team whilst the litigation staff have remained in Exchequer Services to become part of a new Adult Social Care & Finance team. Work will continue by the Counter Fraud Team to focus on identifying and investigating persons or businesses who have sought to abuse the schemes made available.

Following the service changes this year, the counter fraud team will:

- **Work more closely with Internal Audit colleagues to use our joint expertise to help combat all types of fraud being perpetrated against the Council. This will include types of fraud identified in this report such as in relation to Council Tax, Non Domestic Rates & Adult Social Care as well as other areas of fraud risk.**
- **Continue to support the National Fraud Initiative data matching exercise**
- **Complete final actions in relation to a Council Tax Single Person discount review.**
- **Further increase expertise in adult social care financial abuse matters**

The Litigation staff, in their new team will also continue to progress cases in a timely manner that have been referred for the consideration of civil proceedings in relation to debts owed to the authority.